

103
UNITED STATES' POLICY TOWARD THE
TRANSITION IN SOUTH AFRICA

Y 4. F 76/1:SO 8/57

United States' Policy Toward the Tr...

HEARING
BEFORE THE
SUBCOMMITTEE ON AFRICA
OF THE
COMMITTEE ON FOREIGN AFFAIRS
HOUSE OF REPRESENTATIVES
ONE HUNDRED THIRD CONGRESS
FIRST SESSION

SEPTEMBER 30, 1993

Printed for the use of the Committee on Foreign Affairs



U.S. GOVERNMENT PRINTING OFFICE

80-989 CC

WASHINGTON : 1994

For sale by the U.S. Government Printing Office
Superintendent of Documents, Congressional Sales Office, Washington, DC 20402

ISBN 0-16-044729-1

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UNITED STATES' POLICY TOWARD THE TRANSITION IN SOUTH AFRICA

THURSDAY, SEPTEMBER 30, 1993

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FOREIGN AFFAIRS,
SUBCOMMITTEE ON AFRICA,
Washington, D.C.

The subcommittee met, pursuant to call, at 2 p.m. in room 2172, Rayburn House Office Building, Hon. Harry L. Johnston (chairman of the subcommittee) presiding.

Mr. JOHNSTON. I call the subcommittee meeting to order.

First I have been informed that there is a visiting delegation from Botswana. If they are here, would they please stand up.

Thank you very much.

I am very happy to have you here today, and your contributions to democracy are noteworthy; and thank you again for coming.

In today's hearing, we will discuss South Africa, a country we have come to associate with racial oppression under an evil system known as "apartheid." But this afternoon we will discuss a more hopeful image that emanates from this beleaguered country. The subcommittee will focus on the significant progress that South Africa has made toward the establishment of a nonracial democracy.

Since Nelson Mandela was released from prison over 3 years ago, South Africa has made a steady, though at times belabored, progress toward dismantling apartheid. South African political parties have set a date for the first nonracial election in South Africa's history.

Recently the Parliament voted to establish a Transitional Executive Council which will prepare the country for a multiracial interim government. As Mr. Mandela himself has stated, "the count down to democracy has begun."

These developments demonstrate that dramatic strides have been made in South Africa. But the road forward will not be easy. Violence in South Africa has reached levels that are tragic and, in many ways, unfathomable to the average American.

The homicide rate in South Africa is five times that of the United States and 25 times that of Great Britain and Canada. It saddens me to see that the violent convulsions brought on by this transitional process may mean the tragic death of still more innocent people.

Amy Biehl, the young American girl who was brutally murdered outside one of South Africa's townships, and over 11,000 other victims of the political violence, are all part of the horrible legacy of apartheid.

Today we will examine U.S. policy toward the transition in South Africa. We will explore what should be the appropriate American response to the many needs of an African country that has more who die in infancy than graduate from high school.

It is my hope that after today's hearing we will find ways in which the United States can be supportive of the struggle for nonracial democracy in South Africa. When Nelson Mandela asked the world to lift economic sanctions last Friday, he did so with the hope that we would not abandon his country. America must answer Mr. Mandela's call.

This afternoon, two panels will provide testimony before the subcommittee. On the first panel we will hear from the administration, Ambassador George Moose, Assistant Secretary of State for Africa; and John Hicks, Acting Assistant Administrator for Africa.

On the second panel, we will hear from private witnesses, Gay McDougall, director of the Southern Africa Project of Lawyers' Committee for Civil Rights Under Law; Dumisani Kumalo, projects director of the American Committee on Africa; and Michael Christie, director of South Africa Foundation.

And I have asked Stephen Lewis, who is president of Carleton College, to join the panel.

Before we call on our witnesses, I would like to call upon our subcommittee members to make opening statements should they desire.

Mr. Payne.

Mr. PAYNE. Thank you very much, Mr. Chairman. And before I begin, let me also welcome the visitors from Botswana.

In many instances when we talk about what is working in Africa, we point to your great country where you have a positive balance of trade surplus, the economy is moving, it is diversified; and that is the example we hold up with some others about how things can work right. So we are very happy to see you here.

Thank you, Mr. Chairman. Let me congratulate you and your staff on the impressive symposium carried out this morning on the democratic future on South Africa. I think there was a tremendous amount of information and an outstanding group of panelists.

And let me congratulate Congressman Hastings on his participation on that panel as moderator.

This is a time for optimism with the recent developments to move toward a transitional government in South Africa and the action of our U.S. Senate to lift sanctions.

However, it is also a time for extreme caution and vigilance to see that all we have worked for these many years is not in vain. For instance, it troubles me to read reports that the ANC and the main right wing Afrikaners Volksfront Party, headed by General Constand Viljoen, have reached an accord that could lead to the creation of states drawn along ethnic lines.

One might ask why these compromises are necessary in a nonracial South Africa?

I further feel the Senate bill to lift sanctions needs additional safeguards as we begin to take this matter up in the House. Chairman Johnston has submitted a discussion draft of a companion bill to the Senate. He has been most thoughtful in bringing myself and Congressman Hastings and other members of this subcommittee

and the Congressional Black Caucus into partnership in reviewing this bill.

The CBC has already reviewed the draft once and view the bill as positive. A number of us had reservations; but, generally speaking, the Congressional Black Caucus feels that this is the time and that we should move forward.

However, some of the concerns we still would like to resolve are in the area of timing. For example, is it appropriate to lift sanctions before the democratically elected government in South Africa has developed and instituted its own code of corporate conduct?

As we heard at lunchtime today and as other organizations have called for a code of conduct so that the new partnership in South Africa will ensure that the disadvantaged people who have been left out of the development of South Africa for so many years will, indeed, be a part of the new development.

We don't think that is asking too much. While we realize we would be subject to international law in abiding by the United Nations sanctions on arms embargo and nuclear matters, we would like to see this in our bill. After all, the United States in the past has acted unilaterally before.

Finally, there is the subject of oil. While the early lifting of sanctions and the embargo on oil may give a quicker kick to the economy, it also keeps the South African military running. It is interesting to note that the extraordinary ministerial meeting of the ad hoc committee of the OAU on Southern Africa held yesterday in New York recommended that the oil embargo should not be lifted until the establishment and commencement of the work of the Transitional Executive Council is completed. I hope our witnesses will address some of these concerns today, which will certainly help to ensure a lasting peace and democracy in South Africa.

Thank you.

Mr. JOHNSTON. Mr. Hastings, any opening statement?

Mr. HASTINGS. Thank you very much, Mr. Chairman. Thank you for organizing this hearing on the issues of paramount importance to South Africa and the United States.

It gives me a great pleasure to be here this afternoon to discuss with the panelists and my colleagues this important topic of U.S. policy toward the transition that is taking place in South Africa.

I, Mr. Chairman, was not in the U.S. Congress when sanctions were imposed. But I, as a citizen, fought vigorously for those sanctions to be imposed. Now as a Member of Congress and as a citizen, I will fight vigorously for those sanctions to be lifted at the appropriate time and just as vigorously for reinvestment as we did seek divestment.

As developments in South Africa move hastily, the issue of lifting U.S. sanctions against South Africa generates consistent interest and inquiry. I believe that public discussion is always appropriate regarding matters of such significance and at this time, particularly on this issue as the United States continues to encourage peace and democracy around the world and continues to explore the effectiveness and utility of lifting the sanctions in bringing about meaningful change in South Africa.

Apartheid and sanctions are two major impediments toward a democratic development in South Africa.

I would like to take a point of personal privilege, as you have, Mr. Chairman, and associate myself with your remarks and express my admiration to President Nelson Mandela. Obviously he showed courage and dignity through decades of struggle and sacrifice against apartheid, and he demonstrated leadership by moving South Africa toward the threshold of a nonracial democracy.

Clearly the South African Government has made substantial progress toward abolishing apartheid. The winds of change are in the air, and there is a signal that there is progress toward a nonracial democracy. We need to be a full partner, Mr. Chairman, in building democracy in South Africa.

Toward that end, we will need to discuss the important financial aspects and the heightening of our senses regarding our commitment for a higher level not only for South Africa but for Botswana and for all of the continent of Africa.

Not only is it important for the administration to work with the U.S. Congress and antiapartheid groups to develop support measures, but it is imperative that the private sector create growth and equality.

I look forward to hearing from the most distinguished witnesses who are here today, and it is my hope that through our discussion we will join the inexorable march toward freedom and democracy in South Africa.

Let us all work toward a peaceful transition from apartheid to democracy.

Thank you, Mr. Chairman.

Mr. JOHNSTON. Thank you.

Congressman Hastings is a little modest. Even though he wasn't in Congress here, he was very vital in the State of Florida to the imposition of sanctions against any company doing business in South Africa within our pension fund, which is one of the largest in the country.

Mr. Torricelli.

Mr. TORRICELLI. Mr. Chairman, Mr. Moose, Mr. Hicks, welcome. It is a pleasure to be with you.

In any public policy issue there are people who represent points of reference, those who have such credibility that we look to them for guidance in reaching judgment, during my service in the Congress in the question of supporting sanctions against South Africa, that man was also represented by Nelson Mandela, a person who calls upon sanctions for his own country recognizing the sacrifices that will entail, has a special quality of credibility.

Now, he has stated before all the world that he would like those sanctions lifted. He must certainly know the risks involved, the chances of political change or stalemate or disappointment. But he has certainly made a judgment that in inheriting political power in South Africa, he wants to lead a country that is functioning, providing for his people, not having to starve his own government, calling upon them to begin planting the seeds of economic growth and to allow that to start before power is completely transferred.

It is a choice that many of us would possibly not make if we were in his position given the risks, given the chances this does not work.

But the fact remains we are not in his position. We are people who want to do right for his country and for his people. Many of us have spent years fighting and speaking to that purpose. But in the final analysis, it is his country, it is his people. And some of us would hope it is to be his government. I trust in our work in the committee, and this one, we will do our best to fulfill his request. South Africa will grow and prosper when the majority governs. They will grow.

As one member of this subcommittee, that is my intention and to my own promise in whatever work evolves from this subcommittee.

Thank you.

Mr. JOHNSTON. Thank you.

Mr. Engel.

Mr. ENGEL. Thank you very much, Mr. Chairman.

And Mr. Hicks and Mr. Moose, welcome. I want to commend you, Mr. Chairman, for holding these hearings. Certainly, the situation in South Africa and the movement toward a truly democratic society is something that those of us in government in the United States, on both the national, State, and local levels have looked toward for years.

I can remember, as a member of the New York State Assembly, voting to impose those sanctions; all of us wondering whether or not there would ever come a day when there could be a relatively peaceful transition to a democratic and nonracial society in South Africa.

Many, of course, had all kinds of concerns and thoughts that such a time might never come. And, here we are on the threshold of such a transition. The world has certainly had many changes during the past several years: the collapse of communism in the Soviet Union and Eastern Europe, the downing of the Berlin wall, and all kinds of things that we never thought would happen. We now have dialogue between Israel and the PLO.

And, nothing is as strange as all these things happening in the world as the actual chance to have heard Nelson Mandela call for a lifting of sanctions.

Two years ago, I had the opportunity to visit South Africa with a number of my colleagues. One of the things that was said time and time again was that if and when sanctions were to be lifted that obviously they cannot be removed and then the very next day things will—miraculous things will happen.

There was a delayed reaction to the removing of sanctions. I guess that Mr. Mandela certainly understands that and believes that the time is ripe right now.

The one thing that I believe is very important, Mr. Chairman, is that the U.S. Government and the U.S. Congress remain involved with the situation in South Africa.

There are those who would have us withdraw from the rest of the world and who would say that we have many pressing problems here in America and at home, and it is time for us to address our domestic concerns at the expense of our concerns around the globe.

I would, of course, as I have many times on this subcommittee and subcommittee, differ with that. I believe that we must, of

course, take care of our domestic problems. But, America is the leader of the free world. The only remaining superpower must engage itself in foreign affairs.

Certainly when we are talking about the transition in South Africa to majority rule and to a nonracial society, as Nelson Mandela has said many, many times, the United States must lead the way in working toward a new South Africa with the leaders of the new South Africa.

I believe that this Congress, this subcommittee, this subcommittee, must continue to remain involved and must continue to see that progress is made toward the transition to a new South Africa.

I look forward to hearing the testimony of Mr. Moose and Mr. Hicks, and I know that this subcommittee will, in the ensuing months and years, play a major role in ensuring that the United States and the new South Africa are, indeed, partners in democracy.

Thank you.

Mr. JOHNSTON. Thank you, Mr. Engel.

You talk about dramatic effects. I thought about if somebody was in a coma for the last 3 years and woke up and read the *New York Times* last week, and it says Congress is thinking about taking aid away from Russia and giving it to the PLO—I can imagine what they would be thinking.

Mr. Ambassador, you are on. Thank you for coming today, sir.

STATEMENT OF THE HONORABLE GEORGE MOOSE, ASSISTANT SECRETARY OF STATE FOR AFRICAN AFFAIRS, DEPARTMENT OF STATE

Mr. MOOSE. Thank you very much, Mr. Chairman, members of the subcommittee. This is my first opportunity to appear before the subcommittee to discuss South Africa. I welcome that opportunity. I hope it will be, indeed, a part of an ongoing dialogue with the subcommittee on South Africa's transition to nonracial democracy.

The story of South Africa's struggle to put and end to apartheid has gripped the American people for many years. Few of us would have imagined only 3 years ago that the bold leadership of State President de Klerk and ANC President Mandela would bring South Africa so far and so quickly.

Today's hearing is well timed coming as it does on the heels of the week that witnessed a dramatic step forward on South Africa's long and often arduous path to democracy.

A week ago today, South Africa's Parliament passed legislation that effectively sets the stage for the end of the executive white political domination in South Africa.

That legislation provides for the Transitional Executive Council which will give a voice for South Africans regardless of color to ensure a level playing field for political parties in the run up to the country's first-ever nonracial elections.

Mr. JOHNSTON. Excuse me, Mr. Ambassador. We have a vote.

Mr. MOOSE. I understand. Thank you, Mr. Chairman.

Last Friday, in a moment of history that none of us will soon forget, ANC President Nelson Mandela called for the lifting of remaining economic sanctions against South Africa. He urged those who

had battled apartheid to join a new fight to help revive South Africa's embattled economy through investment.

Mr. Mandela rightly realizes that if South Africa's transition to democracy is to succeed, the economy must be strong and vibrant to generate the jobs and resources needed to redress the socio-economic legacy of apartheid.

We endorse this call for the lifting of economic sanctions and particularly urge those State and local governments with sanctions against South Africa to move quickly to remove these sanctions, thus enabling American enterprises to reengage in trade and investment relationships with South Africa.

The administration has responded quickly and concretely to last week's developments. The President heralded passage of legislation by the South African Parliament and Mr. Mandela's call for lifting the sanctions as watershed events in South Africa's historic movement toward nonracial democracy.

We welcomed the swift action in the Senate to lift remaining Federal economic sanctions and look forward to action in the House of Representatives along the same lines. Acknowledging that lifting of sanctions is not enough. The President declared that we must refocus our energies on building a nonracial market economy in apartheid's wake.

To this end, he announced that Commerce Secretary Ron Brown would lead a trade and investment mission to South Africa to explore business opportunities particularly with South Africa's black private sector and that we would pursue an OPEC investment encouragement agreement and a bilateral tax treaty.

Despite the tremendous progress South Africa has made toward democracy in the last 3 years, significant obstacles remain. Most troubling is the continuing absence of the Inkatha Freedom Party, the Conservative Party, and other parties from the transition process.

I believe it is vitally important to South Africa's political settlement be as inclusive as possible. The underlying fear of Inkatha leader Chief Buthelezi, as I understand it, is that a future South African Government might renege on commitments made during the negotiations.

He is particularly concerned that a future government might opt for a highly centralized form of government rather than a system that divides powers between the center and the regions as now is agreed. These are, in our view, legitimate concerns.

The appropriate place to pursue them, however, is in the negotiations process, where Chief Buthelezi and others should be making his case for structures and procedures that would ensure that commitments made during the negotiations are adhered to in the future. We have encouraged all parties to reengage in the negotiations to put their positions forward.

We have made our views known to the ANC as well and urge them to state clearly their support for commitments played in the negotiations.

Mr. Chairman, the administration will make clear its expectations that all parties will abide by their preelection commitments and that our support for the newly elected government will be in the context of that government's respecting those commitments.

I want also to stress our concern regarding the violence that continues to wrack South Africa. This violence must be brought under control. Unchecked it threatens free political expression and could undermine the credibility of the upcoming elections.

The time has come for all political leaders across the political spectrum to make clear to their followers that violence is not an acceptable means of political expression.

For our part, we are now prepared to provide additional support to the national peace accord structures which have already done much to defuse tensions. We also support the presence of international peace monitors from the United Nations as well as the Commonwealth of the Organization of African Unity and the European Community. And we support U.N. plans to expand the number of their monitors.

A key element in reducing violence is economic growth. South Africa's stagnant economy suffers from an unemployment rate that approached almost 50 percent. Private sector involvement is vital to economic growth, and I am gratified that the major parties in South Africa now accept that a healthy private sector is essential to sustained economic growth and that only economic growth can generate the resources necessary to attack the legacies of apartheid.

But South Africa cannot do it alone. Outside investment and expertise will be crucial to consolidating South Africa's democratic transformation and economic recovery.

I earlier outlined some of the systems that the administration is undertaking in response to developments last week. In addition, we will continue our \$80-million-a-year assistance program which focuses on politically, socially, and economically empowering those most disadvantaged by apartheid.

Mr. Chairman, this is a brief overview of our policy toward South Africa. I prepared a longer statement for the record which goes into our policy in greater detail.

In closing, Mr. Chairman, I would simply like to reiterate my hope that this will be a part of an ongoing dialogue with the subcommittee.

We believe that there is an important opportunity now not only for South Africa but for the whole Southern African region to achieve a long-deferred dream of peace and prosperity and democracy.

And we would like very much to work with the Congress to ensure that we seize that opportunity.

Thank you.

[The prepared statement of Mr. Moose appears in the appendix.]

Mr. JOHNSTON. Thank you very much, Mr. Ambassador.

Mr. Hicks, we are going to stand in recess until Mr. Payne, Mr. Hastings, and Mr. Engel return. It should be about 5 minutes.

The subcommittee is in recess.

[Recess.]

Mr. PAYNE [presiding]. The meeting will resume.

At this time, we will hear from our next witness, Mr. John Hicks, Acting Assistant Administrator for Africa Agency for International Development.

STATEMENT OF THE HONORABLE JOHN HICKS, ASSISTANT ADMINISTRATOR FOR AFRICA, AGENCY FOR INTERNATIONAL DEVELOPMENT

Mr. HICKS. Thank you Congressman Payne. I, too, have a fairly detailed written statement that I would like to enter into the record, Mr. Chairman.

Mr. JOHNSTON. Without objection.

Mr. HICKS. Mr. Chairman, I, too, am pleased to be here to discuss U.S. support for the transition to nonracial democracy in South Africa.

The Agency for International Development has been engaged in this effort, too, for over a decade. And at \$80 million per year, South Africa is the largest recipient of development found for Africa resources in sub-Saharan Africa.

Today, more than \$330 million in support of the goals set forth in the comprehensive Anti-Apartheid Act of 1986 have been provided.

The cornerstones of our program have been democracy, human rights, education and training, and community building. We have implemented this program exclusively through nongovernmental community—primarily with the black-led organizations. And we view our broad links with this community as being a unique strength of our program.

We have made major contributions to building a civil society and to politically, economically, and socially empowering the black majority to lead a post-apartheid South Africa.

The widely acknowledged success of this program should be a source of great pride for all Americans including the several members of this body who labored and the CAAA who have provided informed guidance throughout the life of our program in South Africa.

However, our work is not yet finished. It is important to continue to work with the nongovernmental organizations and the community during the transition and, after a government of national unity is in place, to build on the success of our program.

The coming months leading up to the national elections on April 27, 1994, will be particularly challenging. We anticipate transition needs to be fast breaking. And all those working for the process of democratic change in South Africa will have to coordinate closely in order to provide meaningful and appropriate assistance.

We have developed a strategy that will enable us to continue with many of our current efforts as well as address short- to medium-term transition needs in a timely and responsive manner.

We will support the immediate needs associated with the electoral process: violence, mitigation, and conflict resolution. And in the medium- to long-term, we will address the issues of economic and education policy development, public administration and governance, education and training, and black private sector development.

The goals of our program under this new strategic framework remain; the dismantling of apartheid and the preparation of South Africa's disadvantaged population for leadership roles in a post-apartheid society. The goal remains the same because the legacies

of apartheid, decades in the making, will take considerable time and effort to dismantle.

The fact that South Africa's black population finally has an opportunity to participate in political processes will mean little unless that political environment is accompanied by an equally dramatic transformation of the country's economic and social order.

It is for these reasons that our South African program also focuses on increasing the political, economic, and social empowerment of South Africa's disadvantaged majority. Of particular concern to all who care about the success of the political transition is the growing violence in South Africa.

AID is helping to address the problem of violence through support to NGO's, community and lawyers' groups, and others who are working to resolve disputes, mediate conflicts, and to build a culture of tolerance.

We are working with virtually every NGO in South Africa that is engaged in conflict resolution. This year we have grants totaling \$7 million in this area, and we will be providing \$6 million to \$8 million next fiscal year for similar initiatives.

AID has also funded the short-term assistance of U.S. technical experts to work with the Goldstone Commission on its programs investigating the causes of violence and to develop programs to mitigate violence during the run up to the April 1994 elections.

Just as we are assisting the Goldstone Commission, we are prepared to assist the other national peace accord structures in their efforts to ensure a peaceful and democratic transition.

Voter education, training, and party strengthening support are also important; and we have program activities valued at approximately \$8 million this year and a comparable amount next year in direct support of the elections.

We are guided by the principle that the support we provide should not favor any particular political entity regarding its standing in the election.

AID is committed to expanding black participation and ownership of South Africa's economy. Fundamental to achieving sustainable growth and development in South Africa is the full involvement by the majority community through increased opportunities for ownership, entrepreneurship, and employment in managerial and other positions.

Economic empowerment and equity are important concerns that must be addressed. To this end, AID is providing approximately \$11 million this fiscal year in South Africa for black private sector development and another \$11 million on the delivery of innovative and viable community-based private sector financed housing to disadvantaged South Africans.

Now, that the South African Parliament has passed legislation establishing the TEC and Nelson Mandela's announcement last Friday requesting that all economic and financial sanctions be lifted, it is time for U.S. investment in South Africa.

In that regard, we applaud President Clinton's announcement of Secretary's Brown trade and investment police station to South Africa; and we look forward to cooperating with the Commerce Department in this important initiative.

Finally, Mr. Chairman, in our joy and enthusiasm of the positive developments and trends in South Africa and as we plan to garner resources for this country, we must not forget the rest of the subregion. South Africa constitutes only one-fourth of the region's population of 100 million inhabitants and is only 1 of 11 countries in the subregion. Fear also runs high amongst the other countries that they will be marginalized with the increased focus on South Africa. Consequently, as we focus on responding to the needs of South Africa, we must not lose sight of the development, needs, and concerns of the other countries in the region.

Mr. Chairman, I would like to thank you and the subcommittee for the invaluable support which you continue to provide our program in South Africa as we assist the country in its transformation to a free and democratic society.

[The prepared statement of Mr. Hicks appears in the appendix.]

Mr. JOHNSTON. Thank you very much Mr. Hicks.

We will go on to the 5-minute rule here.

Mr. Ambassador, in your testimony here, you state, and I quote, "A new representative government will have to address the expectations of its newly empowered but largely impoverished constituency while maintaining the confidence of minority which currently controls most of the country's skills and virtually all of its capital."

My question is: How do you maintain the confidence of the white minority without abandoning the quest for black economic empowerment?

Mr. MOOSE. Mr. Chairman, it is an important question, one to which I don't profess to have all the answers; but I do think one key critical element, and in all of that, is, indeed, to generate new growth in the South African economy.

One of the things that we have witnessed over the last several years as a result of many things, partly as a result of sanctions, has been a significant decline in economic activity in South Africa such as to threaten not only the prospects for employment and opportunity for the majority but also for the minority.

And I think, as we have seen in other situations in difficult economic times, economic issues tend to make political compromise, political agreement, political accord, political harmony even more difficult.

I have had an opportunity to meet with Mr. Trevor Mandel yesterday, and I know he understands the importance, therefore, of beginning to enlarge opportunities so they can begin to embrace and respond to the aspirations of all segments of the South African economy.

It is for that reason that we believe that the moment really is ripe to begin to put in place those measures which can begin to stimulate that kind of economic growth. Most of that growth will have to be generated by private sector.

There is an important continuing role for the public sector both in terms of bilateral assistance and in terms of the role of multilateral institutions.

I think that role of the first instance, as Mr. Hicks has already underlined, is to continue to address those specific areas of the economy that will allow us to assist the disadvantaged majority to

gain the kinds of access and opportunity that has been denied them.

I think the second role is for us to use our public funding in ways that can leverage private sector investment whether it be through an OPIC investment encouragement agreement or arrangement or a bilateral tax treaty or a possible investment fund that could come under the aegis of either USAID or perhaps under OPIC.

But again the partial answer to your question, I think, is exactly that, that we need to begin now to think how we and others can inject some new growth and dynamism in the South African economy.

Mr. JOHNSTON. A couple of months ago, the CIA gave a briefing to us on South Africa and stated, unfortunately accurately, that the closer that you come to the peace accord, the more the violence would escalate because of the stakes involved.

Now we have the ANC accusing Inkatha of the violence; Inkatha accusing the ANC of the violence. Who is at fault here? Or am I leaving out the Afrikaner as an element precipitating the violence.

Mr. MOOSE. There clearly are a number of contributing factors to the violence. Again, I don't profess to have all of the answers to that.

It is true that, as the process of negotiation has advanced, those elements that have felt most threatened by their accord, unfortunately, have felt the need to take extremist actions to try to block it. I think we have seen that by elements not only on the right but also on the left.

That is why we have stressed for some time the importance of the leaders of those groups, taking the responsibility to say, in clear and uncertain terms, to their followers, that violence is not an acceptable form of expression.

I frankly have been encouraged by actions that some of the leaders have taken in that respect.

I am encouraged this week, for example, that the ANC and the IFP are, yet again, resuming their discussions and that discussions are continuing between the government and the IFP.

I know that a proposal is already on the table for Mr. Mandela and Chief Buthelezi to jointly go to those areas which have been most afflicted by violence to make a common appeal to their respective followers to end that violence.

I think these are the kinds of steps that must be taken. I think it is important that we continue, however, to support actions such as the Goldstone Commission which has made a diligent effort to try to understand and explore and investigate the sources of violence in South African society. And that is why I believe it is extremely important that we be able to support the efforts of the peace accord structures in the Goldstone Commission.

Mr. JOHNSTON. Mr. Payne.

Mr. PAYNE. The question with regard to the moving into the multiracial government there, as you probably know it has been estimated that about 40 percent of white South Africans work for the government or some kind of bureaucracy.

With the new government coming in, first of all, it appears that the bureaucracies would have to be reduced because the govern-

ment could not exist with such a large part of its economy for state-supported employment.

Has there been any thought given to how you will, or how they will come up with a system of how, one, they reduce this tremendously high number of persons working for the Federal Government system, and by the same term, increasing blacks and coloreds into the government so that it truly moves toward reflecting a nonracial government?

Mr. MOOSE. Well, Congressman Payne, I certainly am aware of extensive discussions that have taken place particularly in the context of the national economic forum which brings together business and labor and representatives of government and representatives of respective political parties.

To address—to look ahead to precisely these kinds of issues. I don't feel qualified to outline here the solutions that they may envisage for these kinds of problems.

The one area in which I have had an opportunity to have extensive discussions with South African leaders of various persuasions is the area of the military because that, indeed, is one of the institutions which all agree will require two things.

The first is a substantial downsizing from its current size, given that the military establishment is one which was created for a past policy; and looking ahead to the future policy that doesn't require that kind of defense. That process of downsizing is already under way.

The second element of that is one creates a new national army which is, indeed, representative of and has credibility with all elements of the population.

And to that end, we know that military leaders, for example, of the ANC and of the government, have already been engaged in discussions. We have sought to facilitate that discussion recently by inviting a joint delegation of the ANC military and the South African defense forces here to the country.

Again I don't have a definite answer to what the solution is, but I do know that there are extensive discussions underway in South Africa about how to address precisely that problem of reducing the size of the governmental bureaucracy.

Mr. PAYNE. Thank you. At lunchtime, Mr. Nadu, General Secretary of the Congress of South African trade unions, in his talk, mentioned that there needs to be some concern that the new rush for investment in South Africa, which we certainly all support, will not go simply to keep those who are empowered, empowered and leave those majority of blacks and other minorities powerless. There is some interest with some Members in the House to suggest that a code of conduct for the South African parties to construct—be implemented or be suggested.

What is your thought on that?

Mr. MOOSE. Congressman Payne, I believe very strongly that looking to the future that the issue of codes of conduct or guidelines for investment in South Africa is something that should be determined by a representative South African Government, that that is a sovereign decision that it really possesses; therefore, with that new government to decide how they wish to instruct or guide

the investments in their country, whether it be domestic corporations or international corporations.

We, of course, have in place already a program of fair labor standards, and that program should continue until such time as that new government has been elected and has been installed.

But, again, it seems to me that the notion of having national codes of conduct and, therefore, taking that responsibility and right away from the new representative South African Government could, indeed, contradict the other objective which we have, and that is to create a level playing field for American businesses which are seeking to do business in South Africa.

Mr. JOHNSTON. Judge Hastings.

Mr. HASTINGS. Thank you very much, Mr. Chairman.

Secretary Moose, I said to you earlier, and I repeat, that I am not going to fail in these meetings of the Subcommittee on Africa to suggest that when the opportunity presents itself that you continuously ask our President to visit Africa.

I think a very propitious time would be in advance of the election in South Africa, and I suggest that as a matter of urgency to signal to Africans on the entire continent that there is no intention at all in our Government to allow for the marginalization of Africa.

You have a great amount of knowledge about this, and I appreciate that. So mine to you was just a statement.

But to, Mr. Hicks, I would like to put the question, regarding the involvement of African Americans in the fight to eliminate apartheid in South Africa, as you well know and you know the names, the players that were prominent, but significant numbers of persons were involved in this country in seeking to eliminate apartheid.

Do you have any plans—not you per se, but does AID have any plans to assist African Americans in doing business in South Africa and, you know, just put it as bluntly as I can, because very occasionally no plans are on tap for that. And I am curious as to whether AID has any responsibility, and if so, how you expect to discharge that?

Mr. HICKS. Yes. Thank you, Congressman.

Certainly this is something that we are very concerned about within AID, particularly within the Africa Bureau of AID.

We are—within the context of the Gray Amendment legislation—making efforts to encourage the participation of not only African Americans but other minorities as well in South Africa. And in our program, we have had a good bit of success heretofore; and there are things in the making that demonstrate and indicate our commitment in this area. And I will name just a few.

I mentioned a private sector development activity that we are involved in this South Africa. This is an activity that is actually aimed at strengthening indigenous private sector ownership and also to provide a training in business practices and services.

Now, in doing this, we are making a concerted effort to use African-American businesses and entrepreneurs from the United States to—linking them with black South African business people to do this work.

We have a number of African American and other minority institutions involved with us in South Africa. Africare is doing work in

South Africa. We have the African-American Institute, Creative Associates, just to name few.

One of the major activities that is on the screen in terms of our support for tertiary education, which is a major constraint area in South Africa, is a \$50 million project that will help strengthen historically black South African institutions in that country to expand the capacity of these institutions to produce trained and skilled manpower.

Now, in implementing that project, a significant component of it is to link the historically black institutions in South Africa with historically black institutions in the United States. And that has generated a tremendous amount of interest in the United States.

The week from last, we had HBCU week at AID; and this particular project was presented to many of the historically black colleges and universities in the United States. And a great deal of interest was generated.

So this is something that we are certainly focused on. We want African-American participation. But we are also focused on the other minorities in a much broader sense.

Mr. HASTINGS. I yield back, Mr. Chairman.

Mr. JOHNSTON. Mr. Torricelli.

Mr. TORRICELLI. Thank you, Mr. Chairman.

Mr. Moose, if, indeed, the U.S. Government and the United Nations vote to repeal the sanctions, what would be the legal basis for other jurisdictions to be maintaining those sanctions?

Mr. MOOSE. Well, Congressman Torricelli, I am neither a lawyer nor a constitutionalist.

Mr. HASTINGS. That is to your credit.

Mr. TORRICELLI. Coming from a lawyer!

Mr. MOOSE. Certainly, jurisdictionally, obviously the Federal Government has jurisdiction over those national laws and regulations and restrictions.

U.N. sanctions are binding; but U.N. sanctions, if you will, do not necessarily dictate what restrictions national governments might take in the absence of sanctions.

Mr. TORRICELLI. Perhaps, I could clarify the rest of my question. That by international law and by trade treaty, restrictions on international trade are illegal. Exceptions are made when they are authorized by the United Nations.

And we as a sovereign power reserve the right to disagree with international bodies as we have on a number of occasions. But, indeed, if you lose the color of the international organizations authorization for sanctions and of the national governments, I am wondering if anybody could cite under what authority an individual State or municipality could maintain those sanctions? You need some legal basis to do so, as we have been reminded in the corridors of every international body when they refer to our Cuba policy. You do need some basis to do so.

Are you prepared to cite what that might be?

Mr. MOOSE. Congressman, that is not an issue that we have been formally asked to try to address; and, therefore, I am not prepared to answer your question on that.

Mr. TORRICELLI. That would be fine.

Do you have an economic analysis from the day in which sanctions are lifted, how long, indeed, you believe it is before the economic impact would begin to be felt in a meaningful way in South Africa?

Now, the purpose of my question is to establish that in Mr. Mandela's mind he, undoubtedly, is running to catch a down field pass; that is, he would like to stimulate economic activity that coincides with his assumption of power. Any prospective political leader would want to do the same.

Do you have a sense, indeed, with what the lag time might be for the economic impact of reinvestment?

Mr. MOOSE. It is very difficult to establish a single time line, but I think—let me take one example, and I would also defer to Mr. Hicks here.

One example that I could cite here is the question of the World Bank's response. We have had extensive discussions with the bank. We know that for the bank to do the necessary planning for any project that they might undertake, it would require something on the order of a minimum of 12 to 18 months.

Mr. TORRICELLI. Twelve to 18 months?

Mr. MOOSE. Twelve to 18 months. And I would imagine that any American private sector enterprise might be able to respond more quickly.

But, nevertheless, in order to do the ground work, to do feasibility studies, to do the market research, to do all of those things could save a certain amount of time before they would be able to actually put in place a program or project or an investment.

That is why, from my perspective, it is important that we begin as soon as possible to—that that process of stimulating private sector—

Mr. TORRICELLI. What is your estimate of a date at which the majority government is likely to actually assume power?

Mr. MOOSE. Our expectation at the moment, in light of the agreement, substantial agreement that has been reached, is that April 27 will be the date of elections.

Mr. TORRICELLI. When do you think they will actually assume power?

Mr. MOOSE. I would imagine probably within a month of that election.

Mr. TORRICELLI. So, indeed, if individual jurisdictions in this country are left to their own accord and maintain restrictions into the beginning of the year, then waiting for companies to respond, then waiting for companies to make an investment, and then waiting for companies' investments to have an economic impact, the reality is that this majority government in South Africa, without any intention of our own, is going to continue to feel the burden of sanctions ironically during its first months or years in office?

Mr. MOOSE. I think that is, indeed, a realistic assessment of the situation that government is likely to face.

Mr. TORRICELLI. So, indeed, then there is some reason for Mr. Mandela's calling for the lifting of these sanctions as soon as possible, and whatever was done consistent with getting sanctions at what levels removed to speed investment would be consistent with the interests of the majority government in your judgment?

Mr. MOOSE. I would not wish to speak on behalf of the interests of the majority government.

I would say, though, on the interests of South Africa's development and in the context of the issues that we have been describing here, in other words, how to sustain the political accord that has been arrived at, I think it is extremely important that the economic issues be addressed as a necessary underpinning for that accord. So in that regard, yes, I would agree with you.

Mr. TORRICELLI. Let me rephrase it so we can come to some agreement. Anything, therefore, that is done to ensure that sanctions are lifted at each national and international level to speed investment is consistent with the interests of sustaining economic growth in the opening months of this majority government.

Mr. MOOSE. I would agree.

Mr. TORRICELLI. Indeed, for all of us who have fought apartheid and believe in majority government, this first year in office is going to provide a great test against our critics who are going to attempt to argue that the creation of this majority government was not in the economic interests of South Africa.

Indeed, we must prove that not only is this consistent with individual liberties but, indeed, that a majority government with a legitimacy of its citizens produces real and lasting economic results.

Therefore, again, Mr. Mandela is attempting to provide a confluence of events of investment along with a majority vote of purposes.

Thank you.

Mr. JOHNSTON. Mr. Payne.

Mr. PAYNE. I want just to state that the city of Newark imposed sanctions long before the Federal Government decided to do it.

As a matter of fact, our legislation even went so far as to ban entertainers who entertained at Sun City, restricted them from performing in city-owned facilities in the city of Newark.

So we have some very strong positions that went on throughout the United States and individual states and cities. I think we are all agreed that Mr. Mandela's call for the removal of sanctions, and with one or two safeguards I think we should all move forward.

I would hope that we are not looking at getting entangled on a Federal level when we get concerns about a simple mandate sent down to cities and states regarding their water or what they need to do with their environment.

I would just caution members that if we are looking at some sort of Federal preemption, I think, that we may be getting into something a little bit more than what we think we are.

And although I feel that we should do as much to support Mr. Mandela and the people of South Africa, I think that we are treading on some sort of thin ice when we are talking about creating Federal law that evidently will preempt local and State law. It is just my opinion, but I am not a lawyer.

Mr. TORRICELLI. Mr. Chairman, if I might—

Mr. JOHNSTON. Let me say this, that the question of preemption will probably come before this subcommittee, or the full committee, if necessary, before it goes to the floor. So that is a debate for another day, but you can have your rebuttal, Mr. Torricelli.

Mr. TORRICELLI. Yes. I will choose to make a debate for this day.
On the question—

Mr. JOHNSTON. The light is on.

Mr. TORRICELLI. Thank you.

On the question that of the preemption, first, while I agree the Federal Government will not get involved in issues of water policy, it appears to me that is a question of foreign policy, which is the exclusive judgment of the Federal Government.

Many of us joined in having municipalities do sanctions, because unfortunately, this country, at the time, had a national leadership which would not do the proper thing and step forward. And, indeed, finally we had to act contrary to the policies of the President of the United States which was an enormous national embarrassment.

Fortunately, I think we now have a Federal Government that can act together. I assume it was Mr. Mandela's view that he hoped the sanctions would be lifted not simply in one jurisdiction, not by one institution but, indeed, by the whole Nation.

My guess is it never occurred to him that, indeed, in this call, this fight would have to be waged town hall by town hall but that, indeed, the United States would, indeed, speak with one clear voice in confidence in what is going to be a new and proud government in South Africa.

My question, Mr. Moose, is that, from this, comes changes whether, indeed, to your knowledge, in the European Community taking these actions, in other national governments taking these actions, it is likely to be the European communities judgment that they will do so for the EC and its institutions in Brussels but not for member states or jurisdictions within those member states but, indeed, isn't it much, much more likely they will do so with one voice?

So this raises not only the question of confidence in Mr. Mandela's possible future government but also raises competitiveness questions on whether, indeed, the United States will slowly engage itself in South Africa while others do so on a much more timely basis.

Mr. MOOSE. Well, Congressman, again, I don't know the specific items to your question as to whether the European Community will act as one voice or whether its member states will take respective actions.

But I do—and I would agree that our situation has no comparison to any other that I am aware of around the world. That is to say I am not aware of another nation around the world where, in addition to sanctions that were imposed and applied to the Federal level and the national level, there are also local jurisdictions which have imposed restrictions or sanctions which will have to be addressed in some other fashion.

So I know that the European Community is very likely to take sort of a common position with regard to the lifting of sanctions, indeed, already has, I suspect, that its member states will act on that common position but the complication that we have that they do not have is the existence of sanctions at the State and local level.

Mr. TORRICELLI. Since it is the rare of this institution to ever ask a question to which you don't know the answer, let me suggest that, indeed, the European Community's vote does preempt local jurisdiction. They will do so together, leaving us with the extraordinary irony that the last sanctions against South Africa, when Mr. Mandela or another majority leader is in power, ironically may be within the United States, not by design but simply because some local municipality or State may not get around to its repeal.

Having been the last country to impose sanctions when they should have been imposed, we may ironically be the last to have them when they shouldn't exist. Two national embarrassments.

Thank you, Mr. Moose.

Mr. JOHNSTON. Mr. Payne.

Mr. PAYNE. Yes. I would just like to say that that is why, you know, the United States of America is the greatest country in the world, because we have ways that we operate that are truly democratic.

And I might also note that we don't have a common community.

But let me say that some countries in Europe never really imposed sanctions. Take Great Britain for example. So I think, when you compare the European Community with the United States of America—and I am not so convinced that this playing field that we always hear is so unlevelled toward us, in fact, and indeed it could not be overcome at the proper time as I indicated before—the Congressional Black Caucus made it clear that since Mr. Mandela called for the removal of sanctions after discussion with those primary people like Mr. Dellums and Mrs. Waters and Mr. Mfume and Mr. Hastings and others of us who have been keenly involved with the caucus, after some thought, individuals decided that, yes, we should go along with Mr. Mandela's wishes.

By the same token, we feel that the legislation which was passed in about 15 or 20 minutes in the U.S. Senate was not as thoroughly thought out. And one position, though, that was unanimously clear from the members who were present at the Congressional Black Caucus meeting on yesterday is that there, in fact, perhaps will be a statement made in opposition to preemption.

So I just thought that we would say that on the record.

Thank you, Mr. Chairman.

Mr. JOHNSTON. Mr. Hastings.

Mr. HASTINGS. Mr. Chairman, I would note that the two gentlemen that seem to have some discussion with reference to this preemption matter are from New Jersey, and we are fortunate that we also have two members from Florida on this subcommittee, that perhaps can temper some of the New Jersey sentiment.

I do believe—and I would like to say something on the subject—typical of us in America, is that we tend to look for problems where there are none. If the business environment is stable enough in South Africa or anywhere else in the world, American entrepreneurs are going to find their way there so little cities and counties will rescind and/or repeal their sanctions hurriedly if the business climate is good.

Toward that end, let me say this, Mr. Secretary and Mr. Hicks, I have an abiding belief that what happens in South Africa in the next 50 years—and that is beyond my life time—is going to be de-

terminative in large measure as to what happens on the continent of Africa.

Toward that end, it is critical, in my view, that we do everything that we can to assist in the stabilization of the economic engine that I am talking about for South Africa as well as for the rest of Africa.

This country has taken it upon itself to, and rightly so, to set up investment funds for Eastern European countries and for the former Soviet Union or former U.S.S.R.

My feeling is that we need to have such an investment fund for South Africa, and doubtless for other African countries as well, so we can avoid the frightening prospect that may exist of marginalization.

If South Africa fails in making the transition, then I can assure you it is going to be hell to pay for the rest of Africa. And I just leave that as a statement.

Mr. JOHNSTON. Mr. Ambassador, Mr. Hicks, thank you very much for coming today.

We will have a 2-minute recess while we assemble the second panel.

Thank you again.

Mr. HICKS. Thank you.

Mr. MOOSE. Thank you, Mr. Chairman.

Mr. JOHNSTON. Mr. Lewis may have had to catch a plane, so we may have lost him from our special invitation to join this afternoon's panel; but he may appear.

On our second panel this afternoon we are very pleased to have Ms. Gay McDougall, who is the director of the Southern African Project the Lawyers' Committee for Civil Rights Under Law; Mr. Dumisani Kumalo, projects director, American Committee on Africa; and Mr. Michael Christie, director of the South Africa Foundation.

We will start with you, Ms. McDougall. You have your visual aids up, I see.

STATEMENT OF GAY J. McDOUGALL, DIRECTOR, SOUTHERN AFRICA PROJECT, LAWYERS' COMMITTEE FOR CIVIL RIGHTS UNDER LAW

Ms. McDOUGALL. Yes. I have a chart there to facilitate my testimony.

As you know, last week the South Africa tri-council Parliament passed the law establishing the Transitional Executive Council, the primary institution that will oversee the transition to a new dramatic era.

The act is a carefully crafted statute; and when read in conjunction with the independent electoral commission law and the yet-to-be-completed draft of the interim constitution, it embodies major compromises made by those parties that have seriously committed themselves to the transition.

The major concessions fall in three areas that have been the focus of contention between the parties since the negotiations began.

First, throughout the negotiations, a central issue of contention has been the government's insistence that a constitutional order,

based on majority rule, would not be sufficient to protect the interests of the white minority.

President de Klerk has advocated, instead, a government in which at every level of the legislative and executive branch is a minority party that would have an effective veto power over initiatives sought by parties representing the majority of the population.

President de Klerk also advocated an extensive, up to 10-year, transition process. Now, initially the African National Congress advocated a short transition process that would end in a winner-take-all election.

The compromise has been an agreement to share power in a government of national unity which will govern the country for a 5-year period of time after elections to a constituent assembly.

All parties that win above 5 percent of the vote in the April 27 elections will have a proportionate number of seats in a constituent assembly or national assembly and a proportional representation in the cabinet.

The President will be chosen from the majority party but would need the approval of two-thirds of the cabinet for certain important decisions, thereby allowing certain minority veto.

At the conclusion of the 5-year period of joint rule that would be approximately 1999, there will be an election for a new government based on the post-apartheid constitution as adopted by the constituent assembly.

The ANC believes that the democratically elected constituent assembly would agree on a constitutional order based on traditional principles of majority rule. Therefore, majority rule would not begin until 1999.

The second set of elections on the chart. A second hotly contested—

Mr. JOHNSTON. If I can interrupt you and tell my colleague here that the chart is on the back of your submitted testimony, since our eyes are getting weaker as age creeps up on us.

Excuse me, Ms. McDougall.

Ms. MCDUGALL. A second hotly contested issue throughout the negotiations has been the nature of the post-apartheid state. The ANC's original position was that the future state must be a unitary one with a strong central government as opposed to a decentralized confederation of semiautonomous jurisdictions which was the government's proposal.

The ANC feared that the entrenchment of substantial powers in regional governments would enable regions to block national initiatives such as affirmative action programs. The national party gained allies in its campaign for federalism from repressive homeland governments which saw, in federalism, a means to maintain their power base and also from white right wing political parties who join the press for powerful regions as a route to what they call self-determination for the Afrikaner Nation.

In compromise, the ANC has agreed to strong, regional governments with a substantially greater devolution of power than originally envisioned. Regions will have elected governments with exclusive powers entrenched in the constitution and serve our powers to be exercised concurrently with the national government.

Regional legislatures will be elected at the same time as the elections for the constituent assembly this coming April 27.

The regions will have special representation in the constituent assembly that will allow them to exercise a virtual veto power over decisions affecting provisions in the final constitution regarding regional powers.

The third area of contention has been about the process by which the constitution would be drafted. The national party and its allies have sought to have as many constitutional issues as possible determined by the multiparty forum rather than a democratically elected constituent assembly in which there are likely to be minor-party parties.

The ANC, initially adamant in favor of leaving decisions and all crucial constitutional questions to the elected constituent assembly, has yielded on this point also. The agreed process is that the unelected multiparty negotiating forum has formulated a set of constitutional principles which will be binding on the work of the subsequently elected constituent assembly.

Special majorities will be required to adopt constitutional provisions in the constituent assembly, and a constitutional court will exercise judicial review over the conformity of the final constitution with the earlier constitutional principles.

The multiparty forum will also adopt an interim constitution that will govern the country during the transition period.

Mr. JOHNSTON. Can I interrupt you? What is the make up of the constitutional court?

Ms. MCDUGALL. The constitutional court will be appointed by the constituent assembly, national assembly.

Mr. JOHNSTON. All right. Thank you.

Ms. MCDUGALL. It will have several members. I think they are thinking about three to four members, but that is not settled yet.

In the limited period of time I have remaining, I would like to make just a few brief points. I know I have not much time.

Number one, there is still a lot of land mines in the road ahead. While the Transitional Executive Council and the Independent Electoral Commission—those laws establishing those two bodies have been passed, the legislative package required to start the process in earnest is still incomplete.

Still outstanding is the final version of the interim constitution which leaves as yet unresolved critical questions relating to how the government of national unity will be formed and operate.

The wording of the interim bill of rights remains to be finalized, along with the details of the structures and powers of the interim cabinet and executive. The demarcation of regions is still to be decided upon. These are all very, very contentious issues; and a disagreement over any one of these issues could cause the process to stall for months.

Secondly, a more fundamental problem that must be confronted is the number of parties that currently state that they will not participate in the transitional council or contest the election.

Among the notable dropouts or boycotters is the Pan Africanist Congress on the left, which objects to what it sees as the toothless nature of the transitional council, on the right; the Inkatha Freedom Party, the conservative party; and the governments of two

nominally independent home lands, Bophuthatswana and the Ciskei. They feel that the interests in creating for themselves powerful, virtual autonomous regions have not been accommodated.

In light of these boycotting parties, the leading negotiators may either be forced to make new or more sweeping concessions or to grapple with the implication of moving forward without these other actors.

Third, there also will be serious challenges from within the constituencies of negotiating parties. Right now South African society is operating on two divergent levels. At the top are the elite in both the white and black communities who meet and negotiate the country's future. They understand the process and are optimistic about the future.

At the same time, in South Africa's townships and squatter camps, the angry survivors of massacres and drive-by shootings are proceeding down a distinctly different path. For them, the negotiations have become increasingly remote and too complex to comprehend. Where they live, the double evils of political violence and economic deprivation are producing levels of frustration that threaten to alienate large segments of the population from a process whose success ultimately depends on their full participation in it.

The unemployment rate in the formal sector has risen to a high of 46 percent. A recent survey indicated that only 15 percent of black South Africans feel that they are better off today than they were a year ago.

In another recent poll, 38 percent of blacks surveyed said that fear of violence was likely to keep them away from the polls on election day. A very important point.

Mr. JOHNSTON. What percent was that? How many?

Ms. MCDUGALL. Thirty-eight percent.

Mr. JOHNSTON. All right. I will come back to that.

Ms. MCDUGALL. Finally—and I think I must agree in large measure with Congressman Payne on this point—while we should move quickly to respond to Nelson Mandela's call to lift remaining economic sanctions, I believe that the code of conduct for U.S. corporations, similar to what we now have in the CAAA, must remain in place to serve as an important symbol of our commitment to see the complete transformation of South African society to one which is totally nondiscriminatory, equitable and democratic.

That transformation will take time to complete. The code sets a standard of social responsibility that represents the bare minimum of what we expect of U.S. corporations in the employment of our own citizens at home and abroad.

In the case of South Africa, these special measures designed to also protect South African employees of U.S. corporations are not, I believe, an inappropriate extension of our most fundamental principles about racial discrimination on how U.S. corporations conduct business in a country struggling to escape the legacy of apartheid. The failure of U.S. corporations to operate with due regard to minimum standards of affirmative action and economic empowerment for black South Africans would be an embarrassment and would undermine our international integrity. I think we must continue to play a leadership role in this regard.

Thank you.

[The prepared statement of Ms. McDougall appears in the appendix.]

Mr. JOHNSTON. Thank you very much. If I could, just to jump over to Mr. Lewis, for fear that he may have to catch another plane—if that is all right with the other two members of the panel—Mr. Lewis.

**STATEMENT OF STEPHEN R. LEWIS, JR., PRESIDENT,
CARLETON COLLEGE**

Mr. LEWIS. Thank you, Mr. Chairman. I am sorry that I came in a little late. I would like to talk a bit about the economic legacy and the current situation in the economy, as well as some ideas about what the prospects are and under what conditions they might be realized.

I think this subcommittee and others in the Congress are well aware of the legacy of the apartheid system in economic terms: first, a history of deprivation of the majority of the population, but second, at the same time, there are exceptionally high expectations about what will happen under a new and democratic and nonracial government. The legacy we are dealing with is one of a tremendous backlog of lack of education and skills, which will take many, many years to straighten out; a terribly unequal distribution of assets, whether it is land or physical assets or financial assets; a very unequal wage structure; an unemployment rate among black South Africans now that is probably in the 50 percent range, which is simply untenable for any sustained period in a democratic society; a history of broken families that is the result of the migrant labor system that has been in place in South Africa, and southern Africa as a whole for over a century; a series of industrial investments that were made for political purposes and for decades before that, for economic autarchic reasons—investments that have given South Africa an extremely high cost structure internationally in terms of its industrial base.

Over the last 20 years or 25 years, the efficiency with which capital is used, and the efficiency of new investment, in South Africa has declined year after year after year. So whereas their investment rate could sustain a 5 percent rate of growth of national income in the 1950's and 1960's, the same investment rate only sustained a 1 to 2 percent rate of growth in the 1980's.

The investment rate and the savings rate which were maintained for the first few years after capital was shut off from South Africa in 1985. However, both rates started to drop in the last 4 years and are now below the average levels for middle-income countries. They used to be at or above the average level for middle-income countries.

There has been no employment growth, in total, in South Africa for about 10 years. There has been a decline in the private sector, and an increase in the public sector. The government is running a structural deficit in its budget. The government investment in fixed capital has dropped by about 9 percentage points of gross domestic product over the last decade. And, the litany could go on and on.

There is another side to these disasters. It is important to recognize that, in part because of economic sanctions, in part because of

the actions of private banks in cutting off financing to South Africa, South Africa is now relatively "underborrowed" compared with other middle-income countries. It is extremely underborrowed compared with the rest of sub-Saharan Africa. Therefore, it is in a position to take on some debt and use those resources as a basis not only for its own growth, but also for helping indirectly to finance the development in the region.

Mr. JOHNSTON. Excuse me. Who is its biggest creditor today? Great Britain?

Mr. LEWIS. In terms of bank credit, I couldn't answer that, Congressman; I am sorry.

Mr. JOHNSTON. Mr. Christie, do you have any idea?

Mr. CHRISTIE. I would also be guessing, but I think that guess would be right. The—certainly, the largest asset, fixed asset investor in South Africa is Great Britain.

Mr. JOHNSTON. All right. Excuse me, Mr. Lewis.

Mr. LEWIS. Certainly. I think it is also relevant that South Africa starts this transition with relatively good infrastructure in many sectors of the economy, not just within South Africa, but throughout the region of southern Africa, including transportation and communication; and it has a recent history of a business community very aggressive in making commercial contacts with the rest of the world. They had to be very clever at it to do it in the face of sanctions, but they learned a lot of lessons, and there is a very substantial commercial network of South African business persons throughout Africa and throughout many parts of the world.

The prospects, I think, depend in large part on the policies, the management style and the economic management direction that a new government takes. They depend, as well, on the stability, or the perceived stability, of arrangements that will govern investment and investors, including tax legislation, labor legislation, antitourist legislation, and the like.

Over the last 6 months or so, in reading and in talking with South Africans of a variety of political persuasions I have been struck by the extent to which there is a very broad-based consensus in South Africa at the present time that rapid economic growth, rapid economic development, is a major requirement if this society is going to be successful over the next 10 years.

That conclusion arises because, first, without a substantial rate of growth of the economy, there will not be a substantial rate of growth in jobs. Second, if there is not a substantial rate of growth in the economy, there cannot be resources to pay for the backlog of education, health, housing and other things that the majority population needs. Third, it will be impossible to get the kind of redistribution necessary to give people a piece of the action without having a very substantial and sustained rate of economic growth—it cannot come from a fixed pie.

Another element of the consensus that I have been struck by is that most of the commentators believe the growth has to be outward oriented, export oriented, not inward looking. This view extends from the large corporations to the trade unions to the various political parties, and into the current government.

In order to have growth be export oriented and outward looking, there is a recognition that the very high levels of protection that

have been endemic in South Africa for along period of time—and South Africa has probably the most complex tariff code of any country in the world, as well as one of the highest average tariff rates of any country in the world—there is a clear recognition that that has to come down if they are going to be competitive in the rest of the world markets.

Another benefit that will arise if one is able to get rapid economic growth is that it will make the restructuring of industries a lot easier than if you have a stagnant economy. It is much easier to leave one thing the same size and have everything else grow than it is to leave most things the same size and have that one thing shrink, as we know well in this country.

There is also a clear consensus that the rate of investment in the economy has to rise. From the statements I have heard, at least from the ANC, from the present government, and from others of a variety of political stripes, there is a clear understanding that there has to be a better fiscal balance in the government budgets than has been the case recently. There also is an understanding that the relationships among wages, and productivity, and the exchange rate between the rand and other countries have to be conducive to encouraging export growth. There cannot be a labor elite that is paid well while everybody else is poor—that will be a dead-end street. I think the fact that the trade unions and the business community and the government have worked out what appears to be a very creative and positive arrangement in the motor vehicle industry in the last year; and that they have another tripartite group working on the textile and clothing industries to try and figure out how to change productivity, work rules, wage rates and so on in order to restructure the economy; this kind of consultation gives me reason for being extremely optimistic about things.

Another critical part of moving ahead is that while investment must go up, it is quite clear that such investment has to be primarily from South African sources. Foreign investment has not been a major factor in South African growth for about 30 years or more, and that will continue to be the case on into the future.

South Africa should have and has had the capacity to finance its own investment for the most part. Such investment will not take place until there is a reasonable degree of security in terms of the level of violence as well as a reasonable degree of certainty as to what the policies of a new government will be. There will be foreign investment, I am sure, but I am also sure that, by and large, it will follow domestic investment.

So, Mr. Chairman, these factors indicate where the critical elements are.

The biggest deficit the country faces, I think, is in education and skills. This is a legacy of decades and decades and decades, first of neglect and then of conscious decision to have education for black South Africans different in kind, not just lower in quality, than for white South Africans. Therefore, the process of pulling black South Africans into the modern economy in very large numbers is something that is going to take some time and take some doing and take a major investment.

The lack of skills are an important constraint on the kinds of industrial and other strategies that the Government of South Africa will be able to follow in the short run.

I would like to say something brief about the regional prospects, because South Africa has an enormous impact on southern Africa and it could have a very substantial impact on the rest of sub-Saharan Africa.

For most of the last 15 years, South Africa has been a rogue elephant in the region, inflicting a great deal of damage and destruction on other countries in the region, constraining—or helping to constrain—transportation routes so that trade and transport ran through South Africa instead of out to the two coasts, and so on. The political breakthrough of 3½ years ago has made an enormous difference in the region.

I might say, parenthetically, that my associations with South Africa have come primarily from 18 years of working with the Botswana Government, so I have seen the impact in the region rather directly. South Africa has already had a positive effect on the region simply by not messing things up in the way it had for about 15 years.

The answer to the question of what the future will hold depends to a very large extent on the trade policies and trade strategies South Africa adopts under a new government, as well as the extent to which it will cooperate with its neighbors, particularly in SADC, but also farther north on the continent. South Africa is clearly the economically dominant power in the region, and runs very substantial trade surpluses with most of the countries in the region. Those surpluses are very important to South Africa economically and have been for a number of years.

The Vice President of Botswana gave some remarks at a meeting in August, in which he pointed out that South Africa's exports to its Customs Union partners—Botswana, Lesotho, Swaziland and Namibia—were equivalent to 70 percent of the South Africa total gold exports. This gives you some idea of the relative importance of the region for the South African economy.

If South Africa reaches out cooperatively and has reciprocal agreements and trade relationships with other countries in the region, I think that it would be highly beneficial both for South Africa and for the other countries in that part of the world. I believe it is very much in America's interest to encourage those kinds of cooperative trading relationships. We should all remember there are two or three times as many people in the rest of southern Africa as there are in South Africa, and they are affected by what happens in South Africa.

As far as the conditions for achieving good results—and I think it is possible to achieve good results—the violence must be diminished. Until violence is reduced, people are going to be reluctant to make large investments in South Africa, whether they are foreigners or whether they are South Africans; so that is a major piece of the puzzle.

The other big piece of the puzzle has to be clear, well understood and reasonably certain policies affecting the private sector and private-sector investment in South Africa. In some respects, exactly what those policies are is less important than that there be poli-

cies, and that they be clear, and that they be understood, and that people have a sense that they will continue. And, the kind of broad consensus that I hear among people of very disparate political views about the kinds of economic policies that ought to be pursued under a new government is a very hopeful sign, that in the relatively near future we might have a well-defined set of growth-oriented economic policies.

I will stop there, Mr. Chairman. Thank you very much for listening.

Mr. JOHNSTON. Thank you, Mr. Lewis. Mr. Kumalo.

**STATEMENT OF DUMISANI KUMALO, PROJECTS DIRECTOR,
AMERICAN COMMITTEE ON AFRICA**

Mr. KUMALO. Thank you, Mr. Chairman. We didn't have time to file a statement with you, so what I do have are some remarks which are 5, or 4 or 5 minutes long, and I would just like to read them.

I just returned from South Africa, and I believe that South Africa is going through its deadliest period so far and at the same time its most exciting. And whatever support the United States will give at this time, whether it be political or economic, it will certainly go a long way toward helping the people of South Africa create a democratic society of their own choosing.

I am the Projects Director of the American Committee on Africa, which was founded in 1953 with a mission to support the end of colonial rule on the Africa continent. Forty years later, we are witnessing the slow, bloody and difficult transition toward democracy in South Africa, which will hopefully bring an end to apartheid, one of the most cruel and evil systems of this century.

Sixteen years ago when I fled the apartheid government and came to live in the United States as an exile, my mission was to do everything I could do to organize a movement against apartheid in this country. On behalf of the American Committee on Africa, I immediately began traveling to all 50 States testifying on South Africa before city, county and State governments. I organized churches, unions, colleges and other grassroots organizations into a movement that became responsible for the passage of State and local sanctions in nearly 30 States and in more than 100 cities. Similar restrictions were adopted by more than 100 colleges and universities. And now that Nelson Mandela has called for the lifting of these economic sanctions, we at the American Committee on Africa are eager to have these sanctions lifted.

On the day Mr. Mandela called for the lifting of sanctions, our sister organization, The Africa Fund, released a support statement signed by more than 40 national leaders, including elected officials. As we move to get all sanctions lifted, we would like to remind everyone that many individuals, institutions and other entities that adopted these restrictions did so for at least two reasons. One was to destroy apartheid; it is not yet gone. The other was to help transform the lives and conditions of those who suffered under this system for over four decades. In other words, many people who supported sanctions would like to see American companies go back to South Africa not only to engage in "business as usual," but also to try to help address the legacy of apartheid. Let me emphasize

that none of us here want to dictate to those in South Africa how this legacy should be addressed. The people of South Africa will do that for themselves. We can only support them. But we strongly urge that U.S. policy be shaped to deal with this legacy. And in fact, the exchange between Mr. Payne and Mr. Torricelli goes to the heart of the question about how companies that are not exemplary citizens in this country are suddenly going to be—on their own, become good citizens elsewhere; and that is a question we will have to address as we go along.

Mr. Chairman, 6 years ago I had the pleasure and the honor to take an oath of citizenship of the United States before a Federal judge in Brooklyn. For me, this represented my deep personal expression of commitment to democracy. It is for this reason that I am often frustrated by our own U.S. State Department when it fails to stand up and be vocal about support for democracy in South Africa. No one is asking that the United States take sides in South Africa by supporting one party against the other. We are asking that the United States stand up and be heard publicly about unequivocal support for a fully democratic process and conclusion. In other words, the United States cannot be silent, or protest behind closed doors, when Chief Gatsha Buthelezi and his Inkatha Freedom Party are trying to bar democracy from coming to South Africa by acting as spoilers in the ongoing negotiations. Democracy is too precious to be threatened by one party or one individual. Those who support and defend democracy have a duty to remain steadfast and courageous enough to stand and be counted at every turn of this process.

Whenever I exercise my vote in a New York City or State election, or voice my choice for our President, I am always conscious that my father, who so loved and supported Nelson Mandela, died without any hope that he might ever get to exercise that right in his lifetime. Nelson Mandela, in fact, even to this day, cannot vote for himself. One of the exciting things is that this may change come April 27. I returned from my last trip to South Africa convinced that people will come out in surprising numbers to vote when the elections are held. But they feel very threatened by the violence which seems very unlikely to stop before the elections. There is no doubt that the violence in South Africa is lined directly to subverting the progress toward democracy.

Here are three quick examples:

One, since July, when the April 27 election date was set, nearly 1,000 black people have died in political violence in South Africa;

Two, on the day the Transitional Executive Council bill was passed by the Multi-Party negotiating Forum, unknown gunmen went out and shot and killed 21 people at a taxi stand; and,

Three, on the day that the South African Parliament voted in support of the same bill, violence claimed 14 more lives. And so it continues.

An even greater danger for South Africa, Mr. Chairman, as a whole and in particular the pending elections, is the unwillingness of the government of State President F.W. de Klerk to combat the violence. The political death rate which has risen to as high as 18 people a day, does not seem to move the Pretoria regime into doing something about these killings. Putting the blame for the violence

only on the African National Congress and Inkatha Freedom Party is misleading because the overwhelming number of people who died are killed at random without any regard for their political affiliations. This is evidence of the existence of the Third Force, which has been proven to involve members of the security forces.

In conclusion, we would suggest that immediately and at the appropriate time:

The U.S. Government must stop dealing with the de Klerk regime and publicly recognize and respect the sovereignty of the Transitional Executive Council as soon as it is in place. The creation of the TEC is a hopeful first step toward truly democratic government structures in South Africa.

U.S. funds must be used to strengthen organizations and groups that will become the guarantors of democracy in South Africa.

As I said, Mr. Chairman, we will gladly submit a detailed statement, but we are not able to do that right now. Thank you.

[The prepared statement of Mr. Kumalo appears in the appendix.]

Mr. JOHNSTON. Mr. Christie.

STATEMENT OF MICHAEL CHRISTIE, DIRECTOR, SOUTH AFRICA FOUNDATION

Mr. CHRISTIE. Thank you, Mr. Chairman, and once again, thank you for the opportunity to give formal testimony to this subcommittee. I do have a printed document which I would like to be read into the record. I will give a summary of it.

Mr. JOHNSTON. We will file your prior testimony, without objection.

Mr. CHRISTIE. Thank you.

Just a brief comment on your question about bank lending. The German banks, just sitting here and thinking about it, have quite a large exposure in South Africa as well.

Now, basically, the thrust of my testimony is to associate myself with the point made and underlined by Professor Lewis that rapid economic growth is essential in South Africa. My written testimony starts with an emphasis on the extent of unemployment in South Africa and historical evidence that it is very difficult to sustain an ordered society, and particularly a democracy, with anything like these rates of unemployment, so that the future success of our democracy will depend to a very large extent on the extent to which we create jobs and we create wealth in the country.

I think, therefore—the concern that I express in this testimony is on this question of the legislation that was passed a couple of days ago in the Massachusetts legislature, and it comes down to something that has been brought up in this panel, the question of employment codes; and I would like to devote the rest of my remarks to this.

I will just read from my testimony, but simply, the issue is this: U.S. business is not opposed to the principle of investment codes. In other words, the content of the—for example, the Massachusetts guidelines are not what concerns U.S. business. They will adhere to codes imposed by host countries, whatever those codes are. But they regard codes mandated and monitored from within the United States as a severe disincentive to investment abroad.

South Africa is the only country that is subjected to such imposition. To replace sanctions with mandated codes is merely to replace one barrier with another. It perpetuates the politicalization of a relationship that should surely now become an economic one. It places an imposition on U.S. business that is not faced by its competitors from other countries and places it at a competitive disadvantage.

It is also a matter of sovereignty. When do we get to the point that South Africa can invite foreign investors into South Africa on South African terms?

There are many State and local authorities that are currently poised to pass legislation lifting sanctions against South Africa. If Massachusetts serves as an example, this could become a grass fire. However well intentioned this legislation may be, it will have the effect of going directly against the spirit of Mr. Mandela's call to the world to assist in the rebuilding of the South African economy and President Clinton's positive response.

We have in South Africa powerful black trade unions, whose business it is to represent the interests of their members. U.S. business in South Africa has been at the forefront of establishing modern employment practices in our country. Their employees are almost all unionized. We need the U.S. business community to return and expand. We are appreciative of every dime of foreign aid we get, but we realize that this is finite. We appreciate advice and counsel, because we need it.

But the greatest gift the United States can make to South Africa is the gift of its private sector, the gift of jobs. These artificial and unnecessary barriers will stand in the way of what everyone wishes to achieve.

Now, to bring it to a practical example, Mr. Chairman, I spoke one day ago to the chairman of a large U.S. corporation, who has been looking at investing in the South African economy and who would, of course, respond and had responded very well to Mr. Mandela's statement last Friday. And upon hearing about this Massachusetts legislation, he made a comment which I think is—sounds very American to me. He said, I am not about to have 90 percent of my hassle devoted to 1 percent of my profits, thank you. And he walks away.

I think the essence is simply this, and I repeat it, that it is not the spirit or the provisions of the code that U.S. business has any objection to. They will adhere to whatever South African codes are required, but it is the politicalization of the issue by maintaining mandatory control by some bureaucrat in a state 8,000 miles away from where the business is situated.

Thank you.

Mr. JOHNSTON. Thank you very much, Mr. Christie.

[The prepared statement of Mr. Christie appears in the appendix.]

Mr. Kumalo, we do have your testimony, and we will put it in the record.

Mr. KUMALO. Please.

Mr. JOHNSTON. Mr. Payne.

Mr. PAYNE. Thank you very much. I don't seem to have Mr. Christie's testimony. Oh, OK, good, it is here.

The point that Ms. McDougall raised, as I had raised earlier: In your opinion, do you feel that this code of conduct is going to be something that would put U.S. companies at a disadvantage, and how would you envision a code being, a code there in South Africa for South Africans developed by South Africans, or a code that would be created here in the United States as some—created here in the United States?

Ms. McDOUGALL. Well, let me just establish first that U.S. corporations abroad do act—are held to certain standards by U.S. law in other areas. Very much of the regulation that is contained in Section 208 of the CAAA is in Title VII of our own civil rights laws, and it is applied to U.S. corporations acting in other countries. It applies primarily to, at this point, to U.S. employees of those corporations.

But we do regulate U.S. corporations abroad. And I think it, in the end, has minimal impact in terms of competitive impact.

The other thing is, let's face it, even after April 27, South Africa will not be just another country in the world. It will be a country that is trying to struggle out of an onerous system whose legacy will still exist for many, many, many years. And there are aspects of that system that ring in reminiscent tones to things we have experienced here in the United States, practices we have struggled against here in the United States; and to the extent that we have won against those—that legacy in our own country, and we haven't totally, but one of the things that we have done, I think, is created a level, a certain—a national ethos against racial discrimination, in favor of certain basic principles of fairness and inclusiveness.

And inasmuch as we feel it is right to insist that U.S. corporations apply those standards to U.S. citizens abroad, I think there is not a considerable negative impact to extending those same principles to U.S. corporate actions in the South African situation. I think it is very much a part of who we are as a people in this country. I think it is in our legitimate interests, and it is within the scope of our legitimate interests to make those decisions.

Now, this does not preempt in any way South Africans regulating foreign investment in their country. It certainly won't be in conflict, and we will respect that regulation. We have been very much part of the struggle for self-determination in South Africa, and we will respect that; but we have our own national interests as well, and I think that as South Africa rejoins the international community, it will learn to respect our interests in that regard, too.

Mr. PAYNE. Thank you very much.

Mr. Kumalo—incidentally, I agree with you—you mentioned the Third Force that has been mentioned many times before. In your opinion, do you feel that the current government is taking any action in order to attempt to diffuse that; and secondly, although the Goldstone Commission has done some very outstanding work, the fact that it does not have prosecutorial powers, it simply reports and nothing happens—of course, that is a step up from even an impartial investigation, which is new to South Africa, and perhaps if it did have prosecutorial powers, I question whether there would be a Goldstone Commission.

Could you comment on that whole system?

Mr. KUMALO. Sure, and the best way to do it—Mr. Chairman, I am so used to giving examples, you will have to forgive me on this. But I was in South Africa on National Peace Day, and this was a very moving day; and at midday, all South Africans were asked to stop wherever they were, whether on the freeway, in the factory and everywhere, and if you could, join hands with whoever is next to you and, you know, just for a few minutes—I think the time was 5 minutes—and I happened to be in a rural African area in the northern part of the Transvaal. And tears came to my eyes, watching these young black kids coming from the farm schools with those red-neck farmers, who looked like the police who used to raid my house, and, you know, joining hands for 5 minutes in the name of peace. It was the most moving thing.

But I will never forget, somebody after awhile said, the pity about the Goldstone Commission is that they show up after people have died. They can't do anything for you before people die. And, you know, it was a moving moment because people were reflecting just on South Africans of all races, what you can do about violence.

The Goldstone Commission has done some good work, but because—not only don't they have prosecution powers, they also cannot protect witnesses, which is very key in this violence where mysterious people go out and kill people.

There have been witnesses who have died on their way to testify, or once their names have been given, they have suddenly been killed, and the disadvantage is that it reports way after something has happened.

And the Third Force, the Goldstone Commission, again, in the good work that it has done, it has documented it; and my point, Mr. Chairman, is very simple. Mr. de Klerk wants to be regarded as the ruler of South Africa, fine. If he is, he has a legal and moral duty to protect the people of South Africa, in spite of their race, from crime and violence. The de Klerk administration so far has failed to demonstrate to anybody, even a lawyer like me, that they are willing to do that. After people died after this incident, Mr. de Klerk's announcement was that, OK, we will send 30 detectives to go into an area where people are being shot in the streets.

So I am simply saying that I am worried that we are laying seeds for problems in the future. If we allow the de Klerk government to relax in upholding the protection of people and policing its people, how are we going to expect the government of the national unit to do better; and this is my fear, that I don't know. I don't see this violence ending. It will subside and people say in South Africa, maybe a new government will do better.

Mr. PAYNE. Mr. Christie, just a quick question.

There has been—it was a first-page story in the Christian Science Monitor regarding the fact that the Afrikaner leaders have requested and seem to be winning on a state forged by ethnic lines. Have you heard of any of that, and do you feel that that is something that will be in this new nonracial South Africa in 1999?

Mr. CHRISTIE. Mr. Congressman, that is a hope and a proposition that has been fondly cherished by the more right-wing elements of Afrikaner society for a long, long time. It has always seemed to me, and to most people, a rather bizarre suggestion, but I was interested to note that in the last few days, there were discussions be-

tween Mr. Mandela and leaders of some of the right-wing party about what appeared to be—and the details are not clear to me—some sort of broad agreement; and this, I think, reflects the atmosphere of flexibility that pervades in South Africa at the moment, that there be some sort of broad agreement in an area where the rights of this Afrikaner state would be protected; and I even saw a map. It looked to me a rather contorted thing.

Quite frankly, I don't think it works; but nonetheless, there is an effort, I think, on the part of those who are in the negotiations, for the sake of bringing a very considerable constituency in the country back into the fold, to say, look, we understand your concerns, and let's see what we can do. Maybe we will give you a degree of local government. It won't, obviously, be separatism of any sort. I don't think that is under consideration, but we will give you a degree of local autonomy that will be in some way consistent with the larger purpose that we are trying to seek.

But I think overall—I don't think we are going to see a separate state or anything of the sort. I don't think it is feasible.

Ms. MCDUGALL. Just a bit of updated information. As you may know, Nelson Mandela made mention of the talks in a press conference after his U.N. speech last week and I understand today that the Afrikaner Volksfront has announced that it is cutting off its bilateral talks with the ANC.

Mandela made it quite clear in his press conference last week that while he was, as you say, very flexible, let's talk, let's see where we can come together on moving forward, but he, under no circumstances, he said, was considering an ethnic solution.

Mr. PAYNE. Thank you.

As we have indicated, it has been very difficult for some of us to acquiesce to the majority and Mr. Mandela and others as relates to this whole question of removing sanctions. We—I can assume that Mr. Mandela must have been under a lot of persuasion to make the announcement, but there are so many intangibles as it relates to this future of the country.

I think if you look at Zimbabwe and you look at the economic disparity between white Zimbabweans and black Zimbabweans, you will probably see that the disparity has increased in favor of white Zimbabweans. Because in that instance, there were no attempted safeguards to—as we are talking about of code of conduct and the rest—and I certainly will go along with the majority of organizations that have called for the removal of sanctions since Mr. Mandela indicated that himself.

But I—one reason why I was reluctant was because of all of the things that are unfolding. And when the year 2000 comes, we are hoping that the situation in South Africa does not mirror what has happened in a decade in Zimbabwe where the have-nots are certainly still have-nots and the haves are haves and you have states that are still, except for the legal part, apartheid, and so I—my time has expired, so, Mr. Lewis, you will be saved a question from me. I will yield back the balance of my time to the Chairman. Thank you.

Mr. JOHNSTON. I will be brief because I know everybody needs to leave. But, Mr. Kumalo, you are pretty tough on the State De-

partment. Let me ask you specifically what you would want the State Department to do vis-a-vis Mr. Buthelezi.

Mr. KUMALO. I would hope the State—let me put it this way, Mr. Chairman. I was told by somebody in the State Department that it would not be helpful to the process if they took sides with any party in South Africa, and I agree with them on that.

Mr. JOHNSTON. Sounds like the OAU at times, but go ahead.

Mr. KUMALO. Yes. But, however, my frustration is the articulation of our stand as the United States in support of democracy.

What Mr. Buthelezi has done, according to all the people who are closer to the process, has been to try and really, you know, sort of be the spoiler in this process as it goes along. I think if the State Department publicly said we cannot allow one party to hold on the process and, you know, it is in a public way, not in a quiet way, and that goes a long way.

And I am sure that if you talk to Mr. Moose and other people that work with him, they will say, yes, we are saying that. We have told them that. But in South Africa sometimes things move along when there is a public way of standing up for something.

Right now, the United States is standing in the background and watching the process go on and waiting until they score a goal and then say, good goal, that was good. Now move a along again. I think the U.S., as the leading power in the world, as the number one democratic nation, needs to be standing up and saying, this is what we aspire for. This is what democracy means. That is what I am really trying to encourage.

Mr. JOHNSTON. Do you know for a fact that Mr. Mandela or any representative from the ANC has asked the United States to do that which you propose?

Mr. KUMALO. I know that they have talked to the State Department in quiet about that, in private advisory talks. And I was at a meeting in New York where they sort of said, in general, this is what we are asking from the U.S. Government to support the process and to help us along. Yes, they have said that in private.

But what I am talking about is the U.S. Government, through its representatives in public, saying, we want to see all South Africans, irrespective of race, stay with this process and go along with it. We can't allow—

Mr. JOHNSTON. I don't think they have not said that, but I think you want them to go one step further and condemn Chief Buthelezi—I have been here too long—but what you feel is that there has been a disruptive pattern on his behalf, is that correct?

Mr. KUMALO. Yes, sir.

Mr. JOHNSTON. OK. Now, let me take that to a conclusion. The United States does that and comes out and condemns Chief Buthelezi. Don't you feel that that would escalate substantially the deaths in that country and marginalize him altogether?

Mr. KUMALO. Well, Chief Buthelezi has tremendous power and tremendous resources to cause havoc if he chose to do so, more than what has happened so far. And maybe condemn is a strong word. Maybe urge in public. And, you know, there must be a diplomatic way of condemning it without really calling him names in that direct way. That is what I was alluding to. But just being on

a positive thing, saying, look, we want the process to go along, instead of saying it in private.

Mr. JOHNSTON. Well, everyone accuses the United States too often of interfering in the internal affairs of a sovereign government. Now—not that the ANC is now a sovereign government, but it will be shortly.

Ms. McDougall, you want to jump in?

Ms. MCDUGALL. I just want to weigh in here because it is not as if the government has—our Government has been standing back with its hands behind its back. It has weighed in over many years on the side of Chief Buthelezi, and it has propped him up and emboldened him in a whole series of different ways.

Mr. JOHNSTON. How about the Clinton administration?

Ms. MCDUGALL. Well, I can't say that. I don't think that the Clinton administration has encouraged Buthelezi in the way the previous administrations have. But nevertheless, we as a country have already been an actor in creating the kind of sense of confidence that Chief Buthelezi has that he can be a spoiler and still be accepted in all the nicest restaurants in the world.

Mr. JOHNSTON. Well, you know, we could get into our own philosophical discussion about the cold war schism that the United States created, whether it is Zimbabwe or Maputo or whatever. The cold war is over, and I don't think since the cold war has been over that we have shored up any of our previous allies, nondemocratic allies, I might say. But I just feel in talking to both sides of this issue, that if we polarize this—we, the United States—that it could escalate to deaths there, and that is my fear.

Ms. MCDUGALL. Well, I would say that we do have a responsibility to make it very clear in strong terms that we believe this is a process that all should participate in.

Mr. JOHNSTON. I agree with that.

Ms. MCDUGALL. That we do not view standing on the sidelines, you know, favorably, especially when there are legitimate issues and a forum in which legitimate issues can be fully discussed, negotiated and worked out. And I think that that is our responsibility at this point.

Mr. KUMALO. Mr. Chairman, may I just add one quick thing? That it is the other side of the coin of polarization that I worry about. Yes, I totally agree with you that polarization will not help South Africans, but there is the other side which we don't hear too much.

I mean, as you know, having been to South Africa, one can watch the negotiations and hear about what they are doing in South Africa, all parties, without feeling that they are on a very, very, very serious mission. I want to help them along, and, you know—so whenever there is somebody who is becoming an obvious spoiler, one feels like saying, hey, do something.

When I was in South Africa, Chief Buthelezi was in Germany. They showed on television and newspapers Mr. Kohl urging him publicly and saying, look, it is great you are in my country, but you really have to go back to the talks. And I don't think that comment polarized anything.

And this is the fine line that I am talking about, South Africans need our help. This is what I said in my statement. I don't know

what the process is going to be. But when there has been so much pain—you know, sometimes—this is the Methodist in me—but I sometimes pray that the end will be better than what people have gone through so far.

Mr. JOHNSTON. OK. Mr. Lewis, you mention the fact that the multilateral corporations have sort of pulled the plug on investments in this country and at the same time domestic investments have slacked substantially. How do you get domestic investments cranked back up into the South African economy?

Mr. LEWIS. Well, there are several different things.

One, I do think that the amount of uncertainty right now about what the rules of the game are going to be in the next several years is exceptionally high. People don't like to make commitments when they have that kind of high uncertainty.

So, one very important thing is that the finance subcommittee of the TEC meets to get together very quickly and agree, and bless from all sides, a clear statement of what future policy is likely to be. Because that kind of a group is broadly representative, it seems to me such a statement would be a very comforting thing for investors, whether domestic or foreign.

The other important thing is that there be a package of policies and actions in place—both things that those in South Africa have control over, such as exchange rate, and tariff, and monetary policy, and things that those of us outside South Africa could do with respect to aid, or foreign investment, or trade liberalization.

If I may digress a little bit, because it is relevant, I believe it was unfortunate when sanctions were being imposed that they went on piecemeal because they did not have the kind of effect they would have if everybody had done the same thing at the same time.

Likewise, I think it is unfortunate that they have been removed piecemeal, because if we could have orchestrated and combined a temporary political settlement, moving on to the next stage with a clear statement of what economic policy would likely to be with the reduction or elimination of sanctions, with some commitments of funds from the multilateral agencies, like the Bank and IMF, that would have had, in my view, a tremendous psychological effect.

Now, we haven't lost it all because there are still some things that can be put together. I think some combination of, first, a clear view of what policy might be over the next 4 or 5 years; second, some clear decisions about strategic elements of that policy; and third, some support from the international community and bilateral donors and individual investors, would have a major psychological impact as well as a real impact. And I think the psychology at the moment is terribly important, both inside and outside South Africa.

Mr. JOHNSTON. Well, I think the removal of the sanctions will have more of a psychological effect, first, than it will actually be physical.

Mr. LEWIS. If I may, Mr. Chairman, I think the exchange that Congressman Payne had with members of the panel on this question of what else we need to have by way of a code of conduct, seems to me, to muddy the waters a bit. One of the things that would be helpful is a clear statement: either we are, or we are not, going to have a code of conduct.

If we are, it ought to be a U.S. Government policy, not something that States, local governments and colleges and universities and pension funds and so on adopt. It seems to me a coherent Federal policy, and laissez faire for others to make up codes, are two very, very different things.

Mr. JOHNSTON. Ms. Griffin advises me that the code is in there until the transitional government takes over in our proposal. So that seems to have been an accomplished fact on our part. As for preemption, since neither one of them are here, I shan't get involved with that.

Mr. Christie, let me ask you one final question. How can the new government work toward black economic empowerment without forcing white capital flight? It is a delicate balance.

Mr. CHRISTIE. I didn't think so much the concern would be white capital flight, Mr. Chairman. I think whatever white capital could have flown has flown. I think that business in South Africa has, like the rest of the country, learned a great deal in the last few years. I think there is a reassessment of what one's role is, all these things. We are living in a new environment and I think that there is a commitment and a recognition of what is required to keep an unstable society that is halfway across the ditch to get to the other side and on to firm ground. And I think the—the business community will go along, within its power, to do what is required.

Now, I think one of the major—one of the fundamental aspects that has to be understood is if we do get growth, the white management, call it that way, is already over-stretched in this society. We have had a tremendous flight of the people from the country.

Mostly those who are the best qualified, many of them have left. Now, about 8 years ago, there was a figure put out. The numbers of those who are managed to each manager in South Africa was in the ratio of 42-to-1. The figure for the United States at the time was 9-to-1. I think that that has got worse.

If South Africa—let's assume just for argument's sake we had an economy which was half as much again, we wouldn't be able to find the white management corps, even if it was determined we were not going to bring black managers into place. The simple process of osmosis would have to bring blacks into management into much more responsible positions.

I think this is going to take place, but along with I think some of the programs that I spoke of earlier this morning, that I think companies recognize that in order to survive in South Africa, the largest markets are going to be blacks. Those blacks, particularly in the field of consumers, are going to know the companies that are doing right things and the companies doing wrong things. I think there is going to be consumer pressure. I don't know if I am answering you or not.

Mr. JOHNSTON. I think so. I think you are even suggesting a boycott if it—

Mr. CHRISTIE. I think it is just consumer preferences. The word gets around.

Business is alive to these things and it is all part of marketing and they will have to market themselves, not only their products but market the company. And the way they behave within the soci-

ety. I think it is a survival mode and I don't think the businesses are inflexible in this. This is the way I would hope it is going to go. I think a lot of companies, some better than others, are on that way.

Mr. JOHNSTON. To any of the panel—

Mr. CHRISTIE. Mr. Chairman, I wonder if I could just add one or two things?

Mr. JOHNSTON. Sure.

Mr. CHRISTIE. Since everybody has had a second go.

Mr. JOHNSTON. I was going to say if anybody has anything at all they want to ask now, this is the time.

Mr. CHRISTIE. I think I would just like to make a comment on the sole question of Inkatha and the problem of Inkatha. I don't hold any grief for any political party—I come from that side of the fence—as regards that portion of the society with some dismay.

We have not been very well served by politicians in our country. I think the danger that is perceived by a lot of people is that if one demonizes a person of the power and determination of something like Chief Buthelezi. He is not going to come back into the fold. I know that the response of his—of people close to him and the result of his discussions in Europe and with Mr. Cole, for example, that he felt he had been spanked like a school boy and that makes him more recalcitrant.

I think it is very important to separate the message from the messenger there. He carries some objections and I think Ms. McDougall very well set out the constitutional negotiations are incomplete. There are a lot of contentious points that remain.

Some of those that are raised by Chief Buthelezi are similarly criticisms that have been voiced in public and in a very profound legal form of the Chief Justice who is beyond any of the partisan stuff, and I think that Ambassador Moose's comment this morning is the position of the State Department, just to back up and say something pro for the State Department, is they feel he has some valid points, but that they would urge him and do everything possible to pressure him to make those points back in the negotiating forum where he belongs.

The second thing: just again on the codes, I just want to, and we have to agree to differ on this, that I do think the simple fact of the matter one can argue the toss one way or the another, those codes and they—the regulation, and I am going on what you as businessmen tell me and what their organizations have been telling me over the last year, that if there is this kind of regulation, it goes beyond any other forms of U.S. Government regulation. It comes from a plethora of local governments.

It is a major disincentive to them. Whether there is a legitimate view or not, they regard it as such and the fact of the matter is we will lose jobs and we do have in South Africa, I think, particularly now and more so into the future, a high degree of ability to monitor the behavior of employers in the society.

We are a society that has come out of the most extreme forms of discrimination. And I think that those who are employers in our society will have been sensitized to the needs to act in a responsible way to their employees as much as any other society in the world. And we do want to have the freedom to invite foreign inves-

tors in our terms and we will see to it that they conform to the standards of our society which I can assure you is going to be a very high one in this respect.

Mr. KUMALO. Mr. Chairman, as one who helped draft the Massachusetts bill, which was not this one but the one that was lifted, I just wish for the record to say that again I—as I said in the statement which was for the record, I agree with Mr. Mandela calling for the sanctions, but one thing I would caution is that this very contentious document that you heard so much about today actually came from the ANC.

In October we held a conference in New York where the ANC came with a guiding set of principles. Later on the ANC then changed, because of the economic situation, decided, withdrawing them. So what has happened actually in Massachusetts is that they went to the document which in their minds they think—this is what the ANC wanted and it has all the things in the United States and what have you.

So I want to be careful about that. The biggest problem which I alluded to is that I am having difficulty convincing people that companies, many of them that don't treat black people right in this country, can decide on their own to go to South Africa and trust apartheid. People have great difficulty going beyond that and it is a challenge that will have to be taken to make them understand it.

Mr. JOHNSTON. Does anyone else want to make a comment here?

Ms. MCDUGALL. Well, I will resist the urge to make one last comment, except to say—

Mr. JOHNSTON. However.

Ms. MCDUGALL. Yes. I don't hear Mr. Christie objecting to the Foreign Corrupt Practices Act or other laws that our Federal Government has in place that regulates U.S. corporate activity abroad.

Mr. JOHNSTON. Well, as Mr. Kumalo seems to forget, the U.S. Civil Rights Act dealing with domestic corporations. But I guess one subject we haven't broached at all today—and I don't want to bring it up at the 11th hour—is some type of concern for reproductive rights in South Africa, which I think has got to be addressed sometime by international organizations.

I sincerely appreciate this. It has been very, very helpful to the subcommittee and to the record that you all have established. Thank you for coming a long ways to be here today.

South Africa, I am constantly reminded, has a GNP equal to the balance of the continent combined and it is the engine that runs the whole train down there in Southern Africa.

The other briefing that the CIA gave indicated that what may occur in South Africa is unprecedented in the history of the Earth. This is a unique scenario in which a minority government turns over the reins to a majority government without revolution and it has got to work. It is going to be tough for the next several years. But there is no other alternative upon that transition to work and I appreciate all the help that all of you have contributed.

And with that, the meeting is adjourned thank you very much.

[Whereupon, at 4:40 p.m., the subcommittee was adjourned.]

APPENDIX

SUBCOMMITTEE ON AFRICA OF THE COMMITTEE ON FOREIGN AFFAIRS THE STATUS OF THE TRANSITION TOWARD A NON-RACIAL DEMOCRACY IN SOUTH AFRICA

Mr. Chairman, good afternoon. This is my first opportunity to appear before your subcommittee to offer the Administration's views on the situation in South Africa. I welcome this opportunity and hope it will be the start of a continuing dialogue on South Africa's historic transition toward nonracial democracy. The story of South African's struggle to put an end to apartheid is one that grips the American people. Happily, it is now a story that is ever nearer a positive outcome.

Since my predecessor, Ambassador Herman Cohen, testified before this subcommittee on South Africa last September, the negotiations process has resumed and truly impressive progress has been made. In early July negotiators fixed the date for South Africa's first election open to all citizens regardless of color. Earlier this month, negotiators completed enabling legislation for a nonracial Transitional Executive Council (TEC) and independent electoral, media and broadcasting commissions. In an historic step last week, the white-dominated parliament passed these bills. Once negotiators reach agreement on a transitional constitution and a negotiating plenary session endorses the TEC, the Transitional Executive Council will be established. This historic step, marking the end of exclusive white political domination, could occur as early as mid to late October.

On September 24, ANC chairman Nelson Mandela called for the lifting of remaining economic sanctions against South Africa and urged the international community to become engaged in South Africa's economic and social recovery. If South Africa's transition to democracy is to succeed, we and the rest of the world must contribute to building a democratic South Africa, just as we fought an apartheid South Africa.

----- PROGRESS IN THE NEGOTIATIONS -----

The parties have made great progress in the negotiations, especially in recognizing the importance of strong regional and local governments. The parties have reached agreement on structures to ensure a "level playing field" in the run-up to elections. There has been progress on a Bill of Rights, which would guarantee equality before the law and prohibit "unfair" discrimination on the grounds of race, gender, ethnic origin, color, and religion. Human dignity, personal privacy, freedom of speech and access to information necessary for the protection of rights are among the other rights accepted by the negotiating parties.

Through a painstaking process, the parties have hammered out a set of constitutional principles that will form the basis for a new constitution. We agree these principles provide a sound basis on which to move forward. Particularly important are those principles that recognize the division of powers between regions and the center. We agree such a federal system provides the best means for meeting the needs of a diverse population. The Constitution-making body that will be elected next year will be structured with a balance between nationally and regionally elected representatives. The binding constitutional principles pledged by the parties provide a set of checks and balances that should ensure a genuinely democratic and open system in South Africa. We in the U.S. and in the international community urge the future holders of power in South Africa to honor these solemn commitments made at the negotiating table. We will support the new South Africa in that context.

There are few examples in history of revolution by negotiation. If the transition in South Africa goes well, it will be an example to encourage other nations in Africa and elsewhere. A successful election is important to all of us, but especially to South Africans.

AREAS OF CONTENTION

I must be candid with you now about the obstacles that confront South Africa's transition. We are concerned that a number of groups, including Chief Buthelezi's Inkatha Freedom Party and white rightwing parties, have withdrawn from the talks. They did this on the grounds that "sufficient consensus" was not achieved when the negotiating forum -- over their objections -- decided on the April 27, 1994, election date. Whether these parties will reengage in the transition process is uncertain. During a marathon meeting between President de Klerk and Chief Buthelezi earlier this month, the Inkatha leader refused to rejoin ongoing negotiations, but did agree to continue bilateral talks with the government. This channel may help ensure that Inkatha's views can be taken into account at the negotiations table.

There is also the grave problem of violence. Since July 2 when the election date was set, South Africa has seen an upsurge in violence which has taken a heavy toll in lives. While there has been agreement on establishing a joint peace force to control the strife, much more remains to be done.

The origins of the violence are complex. Much is criminally motivated, a direct result of apartheid. Unemployment figures stand at 40-50% in the townships; lack of housing and basic necessities of life give power to warlords in squatter camps. The tragic KILLING of young American Fulbright student Amy Biehl last month symbolizes the senseless nature of the violence. Also of concern to us is the anger and frustration of the youth. Almost all political groups are losing control of youth in the townships. There is an urgent need to create new police structures that are trusted by the communities. The country must move forward to produce a police force in which its people can have confidence. In addition, there is a strong feeling across a broad spectrum in South Africa that some of the violence is being instigated by elements that want to abort the transition and sow hatred. They must not be allowed to succeed.

U.S. ASSISTANCE PROGRAMS

The U.S. AID program -- the largest program in sub-Saharan Africa at 80 million dollars -- places great emphasis on education and training and on election programs. We are particularly proud of the important contribution we are making to the election process in the months leading up to April 27, 1994. We are providing \$10 million in support of voter education, political party training and election monitoring. With 60% of South Africans never having voted, and with more than half the population functionally illiterate, the task of voter education is enormous. Recognizing this, we began funding grass-roots voter education projects last year -- long before the election cycle began. On another front, a consortium of NDI, IRI and the Joint Center for Political Studies -- working for the first time together -- have been training political parties that have never participated in an election before. Let me note we do not assist parties such as the Pan Africanist Congress (PAC), which have not renounced violence. The Lawyer's Committee for Human Rights has recently begun a program under the Independent Forum for Electoral Assistance (IFEA) to train thousands of local election monitors and to prepare election manuals. We will also be exploring ways in which we can assist South Africa post-election as the new government seeks to consolidate the political settlement reached in negotiations.

While we are -- correctly -- not involved directly in the negotiations, since that is an internal South African process, we have helped in such substantive ways as by providing constitutional experts. We are also conducting training for future diplomats, bankers and public administrators. We have funded a visit by the South African Defense Force and the ANC's armed wing, Umkhonto we Sizwe (MK), to the U.S. to explore the issues of force integration, affirmative action programs and the role of the military in a democracy. We will

be able to respond even more effectively to South Africa's changing needs when Congress completes action on the South African Democratic Transition Support Act. I am pleased that the Senate has already passed the Act; I hope the House will do likewise soon.

ECONOMIC INVESTMENT

The success of South Africa's political transition will depend upon its economic recovery. A new representative government will have to address the expectations of its newly empowered, but largely impoverished, constituency, while maintaining the confidence of the minority which currently controls most of the country's skills and virtually all of its capital. Maintaining law and order will be critical in building confidence and better relations within communities and across racial lines. Whole new security forces must be created and trained. In short, much work needs to be done.

Reviving South Africa's stagnant economy presents an enormous challenge. We -- and the rest of the international community -- can contribute through our bilateral programs and through multilateral efforts such as the World Bank, IMF, African Development Bank and others. We will also work with our G-7 partners to reintegrate South Africa into the global economy.

While the public sector can make an important contribution, it is the private sector that can fire South Africa's economic engine and revive the economy. Our federal programs will actively encourage and support the American private sector in seizing opportunities in the new South Africa. The Export-Import bank is already open for business in South Africa. As the President announced last week, we will begin negotiations on an OPIC investment encouragement agreement and send a Cabinet-level trade and investment mission to South Africa.

In the wake of Mr. Mandela's call for the lifting of remaining economic sanctions, we will work closely with South Africans and the American business community to urge states, localities and other institutions to move quickly to remove their sanctions. We will also work to ensure that sanctions are not replaced by U.S.-specific codes of conduct that would hamper American private sector involvement in South Africa. While we believe strongly that American businesses should maintain their tradition of socially responsible activity in South Africa, a new South African government should have the sovereign authority to set its own standards and to determine what mix of incentives and responsibilities is most conducive

to a favorable business and investment climate. And these decisions should apply to all investors and businesses equally, whether domestic or foreign.

A vibrant, free market economy is vital to generating the resources needed to address socio-economic inequalities. While the private sector and market forces must lead South Africa's economic recovery, the post-apartheid government will also have a central role to play. South Africa will reenter an increasingly competitive world economy. The mere establishment of genuine democracy in South Africa will not be enough to attract new capital or trade opportunities. It is imperative that a new government adopt policies that promote growth and recognize that South Africa must prove it offers a favorable investment climate.

We will continue to invest in ideas and people in South Africa. These programs, not expensive by most standards, probably have more payoff than almost any program activity we have. For example, over the past several years, we have provided training and information to the ANC and others on various aspects of free-market economics. The result is a debate on South Africa's economic future that turns less and less on ideology and focusses increasingly on seeking pragmatic solutions that work. We have been able to bring some of America's finest experts on federalism, election management, human rights and affirmative action to South Africa and to send many South Africans to study these issues in the U.S. With funding from USIS, USAID, the National Endowment for Democracy and the Fulbright program, the United States Government has constructively influenced the direction of the democratic movement in South Africa.

We are proud of the contribution made by the American Anti-apartheid movement and by Congress itself to the dismantling of apartheid in South Africa. Many of these programs came about through the efforts of the movement and through those of Congress. We are all committed to the same goal of mobilizing resources to ensure the success of a new, non-racial, democratic South Africa. We must all move together to assist South Africa in its recovery from the socio-economic legacies of apartheid. The sooner we can stimulate private and institutional investment in South Africa, the faster we can expect to see the economic growth which will create the jobs so sorely needed to curb the violence and to usher in an era of political stability.

Thank you again for this opportunity to provide our views on developments in South Africa. In my few months as Assistant Secretary, I have benefitted from informal exchanges with members of the Committee and with the staff. I look forward to an ongoing dialogue with you in the months ahead as South Africa journeys on the historic path to democracy.

STATEMENT OF JOHN F. HICKS
Acting Assistant Administrator
Bureau for Africa
Agency for International Development
before the
Subcommittee for Africa
Committee on Foreign Affairs
U.S. House of Representatives
Washington, D.C.
September 30, 1993

Mr. Chairman, Members of the Committee, I am pleased to be with you today to discuss A.I.D. support for the transition to non-racial democracy in South Africa.

As you know, Mr. Chairman, A.I.D. has been engaged for over a decade in activities supporting the transition to a democratic and equitable post-apartheid South Africa. At \$80 million per year, South Africa represents the largest A.I.D. program in sub-Saharan Africa. Over the past ten years, A.I.D. has provided more than \$330 million in support of the two broad goals set forth in the Comprehensive Anti-Apartheid Act of 1986 (CAAA):

- (1) to support the dismantling of apartheid, and
- (2) to help South Africa's black population prepare for a leadership role in a democratic, post-apartheid South Africa.

In this effort, we have worked closely and consistently with the Congress and this Committee to tailor our assistance to best support these goals.

Historically, the cornerstones of our program have been democracy, human rights, education and training, and community building. We have funded over 1,500 scholarships for the disadvantaged majority to assist them to prepare for leadership roles in a post-apartheid South Africa; and funded legal assistance for political detainees and those opposed to apartheid laws, provided assistance to human rights advocacy groups, legal advice centers, public interest lawyers, and the families and victims of violence, and supported press freedom. In addition, because community development and community action have been central to confronting apartheid and building a civil society, we have focussed on developing community leadership and building local institutions, including neighborhood citizen advice centers, women's organizations, career counseling centers, and short-term training in leadership, community problem solving, legal assistance, labor issues and other areas. Importantly, we have implemented this program exclusively through the non-governmental community, making major contributions to building civil society and to politically, economically, and socially

empowering the black majority to lead a post-apartheid South Africa. Our work is not finished, however. We feel that it is important that we continue to work with the NGO community during the transition and after a Government of National Unity is in place to build on the successes of our program - fostering a vibrant, responsive, balanced civil society and developing leadership capacity through education and training.

We have developed a strategic framework that allows us to both continue with our current efforts and address both the short to medium-term transition needs in South Africa in a timely and responsive manner. Through this strategy we are poised to address the immediate needs associated with the electoral process, violence mitigation, and conflict resolution, and the medium to long-term issues of economic and education policy development, education and training, and supporting black private sector development.

This strategic framework applies to the time period encompassing the establishment of the Transitional Executive Council (TEC), national elections in April 1994, the installation of a Government of National Unity, the drafting of a new Constitution, and the early months of government under that new Constitution.

The goal of our program under this new strategic framework remains the same as set forth in the CAAA. It remains the same because the vestiges of Apartheid, decades in the making, will take time to dismantle. The adoption of a new Constitution, which dismantles the last pillars of Apartheid is only the start, not the end of this long process of change. The fact that South Africa's black majority population finally has an opportunity to participate in political processes will mean little unless that political transformation is accompanied by an equally dramatic transformation of the country's economic and social order. It is for these reasons that our South Africa program has the subgoal of increasing the political, economic, and social empowerment of South Africa's disadvantaged majority. We have defined empowerment to mean that individuals and communities, previously marginalized, are able to articulate, address, influence, and ultimately change the full range of issues and concerns that directly affect them.

This has led to three major strategic objectives for our program:

- Fuller participation by the majority population in the political development and governance of a democratic, human rights based South Africa;
- Assisting in the establishment of a more equitable and effective educational system; and

- Increasing broad-based black ownership, employment, and participation in all levels of the South African economy.

In addition to these objectives, we will continue our initiatives in violence mitigation aimed at promoting a culture of tolerance, and we will continue to fight the scourge of HIV/AIDS through educational initiatives aimed at controlling the spread of AIDS.

As the last pillars of apartheid collapse, A.I.D. will assist in addressing the immediate needs of the democratic transition and consolidating the investments we have made over the last ten years.

Areas of special emphasis will include the following:

Transition to Democracy: With the first election scheduled for April 1994, A.I.D. is devoting substantial resources to support voter education and other election-related activities aimed at making South Africa's first experience with a universal franchise a success.

Violence Mitigation: Reducing violence is critical for a free and fair election and for future political stability. Therefore, A.I.D. is increasing its support for organizations involved in dispute resolution and other activities intended to reduce the level of violence and promote a culture of tolerance.

Public Administration and Governance: To help prepare black South Africans for full and effective participation in a post-apartheid government, A.I.D. is increasing its support for training in public administration and other fields.

Economic Policy: A.I.D. is expanding its efforts to support policy dialogue and economic analysis in the majority community, so that a new government will have a better analytic base for its economic decisions.

Private Sector: More funds are being directed toward supporting black private sector development, based on our view that economic growth and increased black participation in the mainstream economy are important complements of a political transition.

Education: Education is consistently cited as one of the highest priorities in the majority black community. Through our planned FY 1994 Tertiary Education Linkages Project, we will expand our tertiary education program beyond the provision of scholarships to strengthening historically black South African colleges and universities, the institutions likely to train the next generation of South Africa's majority population. We will also focus on assisting the new government with developing alternative basic education policies to address the historic inequities in

the area of quality education for black students.

In order to respond rapidly to issues specifically related to the transition in South Africa, and to ensure the flexibility to quickly respond to events on the ground, A.I.D. initiated, in Fiscal Year 1993, the Transition Support Fund (TSF) Project. TSF is designed to respond to transition concerns, especially those related to economic policy formulation and democracy and governance issues. This project will fund technical assistance, training, conferences and workshops, and observational travel in connection with the democratic transition in South Africa.

Relations with the TEC

I know that many of you share my joy at the speed with which the last pillars of apartheid are falling. On September 7, the Multi Party Negotiating Forum agreed upon draft legislation to establish the Transitional Executive Council; on September 23, the bill establishing the TEC passed the South African Parliament. We anticipate that the draft interim Constitution will be taken up by Parliament in October, and speedily approved. Operating under the interim Constitution, the TEC will guide the Government and the people of South Africa during the last few months of transition towards a fully representative, multi-racial government. We view the TEC as a critical stage in the transition to democracy in South Africa, and we will lend our full support to the TEC process.

The establishment of the TEC is, of course, but one of a series of steps required to ensure the emergence of a post-apartheid South Africa. Other necessary steps include the finalization of the interim Constitution, the successful holding of non-racial elections now set for April 27, 1994, the subsequent installation of a Government of National Unity, and, finally, the adoption of a new non-racial constitution.

There has been speculation that the announcement of the creation of the Transitional Executive Council would, in and of itself, completely change the way A.I.D. operates in South Africa. Indeed, we have reviewed our assistance strategies and relationships in anticipation of the TEC's approval, and some changes are being made - particularly in our policies concerning aid to South African non-governmental organizations that also receive some of their funding from the South African Government.

By contrast, in our relationship with the Government itself, we do not expect the establishment of the TEC to have a dramatic effect on how A.I.D. operates in South Africa. The TEC is a mechanism to influence the South African political and social environment in ways critical to "levelling the playing field" for elections, rather than an interim government arrangement. The

basic composition of the current South African Government will remain in place until after the non-racial elections scheduled for next April.

Quite apart from questions concerning A.I.D.'s relationship to South African NGOs and the South African Government is the issue of A.I.D.'s relationship to the TEC. While it is difficult to anticipate the exact nature of A.I.D.'s working relationship with the TEC, because the TEC structure is still not completely defined and because we do not know what powers will be delegated to the TEC's subcommittees, A.I.D. stands ready to respond to requests that may come from the TEC or its subcommittees. Areas of cooperation already identified include support for the forthcoming non-racial elections and efforts to mitigate violence.

A.I.D. is currently providing more assistance than any other foreign donor to the support of elections in South Africa. This fiscal year alone, A.I.D. has allocated some \$8 million to voter education and other elections support, and we anticipate providing a similar amount next fiscal year through South African or U.S. non-governmental organizations. In addition to this substantial investment directly in support of the elections, A.I.D. has allocated some \$7 million this fiscal year to programs which will contribute to improving the environment for elections by reducing conflict and violence. We would welcome efforts by the TEC's Independent Electoral Commission to coordinate donor efforts in voter education, violence mitigation, and other areas, and will attempt to respond to program priorities set by the Commission.

Other areas of possible cooperation include responding to TEC requests for specialized assistance such as U.S. expertise on standards for fair programming in the media and funding international elections monitors. A.I.D. will, of course, take care to only fund activities which are consistent with A.I.D.'s program objectives in South Africa, and will not usurp the South African Government's responsibility to fund obligations that are appropriately its own.

Relations with the Government of National Unity

While the establishment of the TEC will, in subtle ways, alter the way A.I.D. operates in South Africa, the election of a Government of National Unity will bring about more significant changes. Once a post-apartheid government based on a universal franchise is installed, the obvious first step for A.I.D. will be to establish a bilateral relationship with that democratically-elected government. The extent to which A.I.D.'s operations in South Africa change after the elections will depend in part on

the assistance priorities established by the new government, and in part on Executive Branch and Congressional guidance. Our current thinking, in accordance with our strategic framework presented above, is that A.I.D. should continue to provide substantial funding through NGOs to continue our efforts in helping to build civil society and mitigating violence, with funding also going to the Government of National Unity in areas of critical importance to sustainable development in South Africa, such as educational policy reform, public administration and governance, economic policy and management, and black private sector development.

The extent to which A.I.D. can work directly with a government in South Africa in the longer term, and intensively engage with the TEC in the nearer term, depends on limits drawn by Congress. In the immediate, A.I.D. sees the need for two changes to current legislation regarding South Africa: 1) the ceilings on grants for human rights projects need to be removed, and 2) specific and implied limitations on assistance to organizations financed or controlled by the South African Government should be modified or clarified to facilitate increased assistance, after consultation with appropriate Congressional committees and with representative South African organizations, to universities, the national Forums, the Goldstone Commission, the National Peace Accord Structures, or the TEC and its subcommittees. A.I.D. has been providing limited assistance to the Goldstone Commission, and has agreed in principle to provide limited assistance to the other Peace Accord Structures on a case-by-case basis, under our new transitional strategy and recently liberalized approach to CAAA-based policy restrictions on funding organizations that are "substantially financed and controlled" by the South African Government.

I am pleased to learn that legislation expressly authorizing A.I.D. to provide such assistance on a more systematic basis is included in the "South African Democratic Transition Support Act of 1993," introduced by Senator Kassenbaum and passed in the Senate last week. Once enacted into law, this legislation will permit A.I.D. to make assistance available to a new government after the President certifies to the Congress that it was elected on a non-racial basis, through free and fair elections, and has taken office. We hope this legislation, as well as similar legislation we understand will soon be introduced in the House, will be enacted into law expeditiously.

Violence in South Africa

Of increasing concern to the Mission in South Africa, and to all those who care about the success of the political transition there, is the growing violence in South Africa. Violence in South Africa is a complex issue. A.I.D. is helping to address

the problem of violence in South Africa through support for NGOs, community and lawyers groups, and others who are working to resolve disputes, mediate conflicts, and build a culture of tolerance. In fact, A.I.D. is working with virtually every NGO in South Africa that is engaged in conflict resolution. As I mentioned, this fiscal year alone, we have grants totalling \$7 million in this area, and we will be providing from \$6 to \$8 million in additional funding for new initiatives next fiscal year. In addition to working with private South African organizations, A.I.D. has funded the short-term assistance of U.S. technical experts, including constitutional lawyer Charles Ruff, to work with the Goldstone Commission on its programs investigating the causes of violence, and to develop programs to mitigate violence during the run-up to the April 1994 elections in South Africa. Just as we are assisting the Goldstone Commission, we are prepared to assist the other National Peace Accord Structures in their efforts to ensure a peaceful and democratic transition.

Examples of A.I.D. support to community-based efforts to mitigate violence include:

- 1) A grant of \$425,000 to the Natal-based Center for Criminal Justice, which promotes community mediation and violence mitigation through community programs, including direct conversations between community leaders and the security forces.
- 2) A grant of \$2,100,000 to the Independent Mediation Service of South Africa, which supports local peace organizations and tries to mediate regional disputes and disputes among communities.
- 3) A grant of \$350,000 to the Institute for Independent Research on Peace and Human Rights in South Africa, which promotes seminars and workshops on negotiation and dispute resolution in the Eastern Cape, especially areas hard hit by violence such as Ciskei and Transkei.
- 4) A grant of \$3,100 to the Mphumalanga Peace Committee in Natal to support sharing with other communities of the methods by which ANC/IFP violence was successfully eliminated in Mphumalanga.

Elections Support

While A.I.D. considers the mitigation of violence to be an important prerequisite to free and fair elections in South Africa, we consider voter education, training, and party strengthening to be of paramount importance to the success of this process. As you know, Mr. Chairman, the elections scheduled

for April of next year will provide the first opportunity for the majority of South Africans to cast a vote in any electoral process. Because of the importance we place on educating both the new parties and new voters, A.I.D. plans to spend approximately \$8 million this fiscal year and a comparable amount next fiscal year, before the election, in direct support of the electoral process. We will ensure, as we implement these activities, that they not be construed as helping any political entity improve its standing in the elections.

A few examples of A.I.D.-funded activities providing electoral support include:

- 1) A grant of \$32,000 to the Independent Forum for Electoral Education to coordinate voter education activities and reduce duplication;
- 2) A grant of \$250,000 to the Independent Mediation Service of South Africa for voter education in small and medium size business firms and for training of trainers;
- 3) A grant of \$319,000 to the Institute for Multiparty Democracy for training of regional personnel in election monitoring;
- 4) A grant of \$1,700,000 to the National Democratic Institute for International Affairs for countrywide voter education and distribution of educational materials;
- 5) A grant of \$624,000 to the National Democratic Institute for International Affairs to bring together international elections experts and South African leaders to discuss elections preparations in South Africa;
- 6) A grant of \$1,907,000 to a consortium of NDI, NRI, and the Joint Center for Economic and Political Studies to help political organizations prepare to compete for the first time in multiparty elections; and
- 7) A grant of \$797,000 to the Lawyers Committee for Civil Rights under Law to provide technical assistance to South Africans working on the legal framework of the electoral system, establish a voters rights complaints process, and coordinate elections monitors from the United States.

Relations to Black-led Organizations

As I mentioned above, from the beginning, our program in South Africa has been implemented through non-governmental organizations, and A.I.D. views its broad links with the non-governmental community in South Africa as being the unique

strength of our program there. It is increasingly clear that the South African NGO community can not only give invaluable guidance to A.I.D. in the directions we should be heading with our assistance, but the community can help ensure the accountability of a popularly elected government. A.I.D. policy, therefore, explicitly emphasizes establishing, strengthening, and working closely with black-led non-governmental organizations that support political empowerment and civic development, in line with the CAAA mandate to help prepare black South Africans for leadership roles in a post-apartheid South Africa.

In order to maximize the extent to which we work through black-led non-governmental organizations in South Africa, A.I.D. both supports new groups which emerge directly out of the black community, and helps to transform existing organizations through supporting affirmative action goals set by the organizations themselves.

A.I.D. is actively involved in developing the managerial and organizational skills of existing black-led NGOs through the \$65 million Community Outreach and Leadership Development Project (COLD). Since 1986, over 210 activities have been funded under the COLD Project, the majority of which have gone to black-led community-based organizations throughout South Africa to enable them to better serve their constituencies.

A.I.D. continues to work hard to increase its funding, in both absolute and relative terms, of black-led NGOs in South Africa.

Black Economic Empowerment

Just as A.I.D. is committed to increasing the role of the majority population in shaping future economic assistance to South Africa, A.I.D. is committed to expanding black ownership and participation in South Africa's economy through market mechanisms. Fundamental to achieving sustainable growth and development in South Africa is the full involvement and an increasing stake by the majority community in an expanding private sector through increased opportunities for ownership, entrepreneurship, and employment in managerial and other positions in the mainstream economy. We believe that increased majority ownership and participation is critical to the success of a post-apartheid South Africa. Economic empowerment and equity are important long-term concerns facing South Africa, and it is imperative that they be addressed.

In light of this commitment, one of the three "strategic objectives" underpinning A.I.D.'s portfolio of assistance to South Africa - along with black social and political empowerment - addresses the economic empowerment of the majority population of South Africa. A.I.D.'s goal, simply put, is to increase

broad-based black ownership, employment and participation in all levels of the South African economy. To this end, A.I.D. is spending approximately \$11 million this fiscal year in South Africa on black private sector development and another \$11 million in the related area of housing.

A.I.D.'s activities in this area support largely black-led South African initiatives to increase access to private sector financial and business services for black South Africans, in order to enable the black business community to more fully participate in reshaping the legal, regulatory and judicial environment of South Africa, and to increase interaction among labor, business, community, political and academic groups on economic transformation.

Lack of affordable housing, along with lack of quality education, has been repeatedly identified by South Africa's majority population to be among the most critical development needs in South Africa. In the housing sector, A.I.D.'s goal is to deliver innovative and viable community-based private sector-financed housing to disadvantaged South Africans. Under an existing project, we are working with black communities to plan and build housing and urban services; providing grants to leverage funds for housing finance; funding research on housing and local government policies; and building a cadre of black construction contractors. Under a proposed FY 1994 \$25 million private sector-based housing investment guarantee program, A.I.D. may be in the position to provide bridge financing for low-cost housing and infrastructure development activities; promote private sector mortgage financing for black South Africans; assist in the development of affordable housing, land and services packages; and support black-owned construction activities.

In the micro-enterprise sector, A.I.D. is facilitating the efforts of both non-profit institutions and the formal banking sector to support a rapidly emerging non-formal economic sector with training and sustainable finance programs. Through A.I.D.'s Private Enterprise Bureau's Loan Portfolio Guarantee Program, four private banks in South Africa have received \$4.5 million in loan guarantees, which enable the banks to lend the equivalent of \$9 million to disadvantaged South African businesses; the program targets emerging and informal sector entrepreneurs.

In addition, A.I.D. is helping black advocacy groups to more effectively participate in the various economic fora that are emerging as part of the transition process.

Lastly, A.I.D. is providing black private sector entities with access to American expertise, technology and experience, particularly African-American experience in enterprise development (e.g., Soft Sheen International), through the A.I.D.-financed Black Integrated Commercial Support Network, which links

black entrepreneurs with U.S. partners, particularly in franchising.

U.S. Investment in South Africa

Now that the South African Parliament has passed legislation establishing the TEC, and Nelson Mandela's announcement last Friday requesting that all economic and financial sanctions be lifted, it is the time for U.S. investment in South Africa. We fully agree that OPIC, EXIM, TDP and other programs should be geared to increase U.S. trade and investment to assist in addressing South Africa's economic problems. This will be important for creating much needed employment for the black community in South Africa.

As the political transition evolves, U.S. firms are becoming increasingly interested in South Africa. To ensure that they take full advantage of opportunities to invest in black enterprises, USAID will enter into an agreement with the Overseas Private Investment Corporation that will provide A.I.D. funding for investment missions and feasibility studies directed at linking U.S. trade and investment to South Africa's black entrepreneurs. Initiatives are already underway to facilitate the interest of U.S. financial institutions in providing disadvantaged South Africans with access to business capital.

And finally Mr. Chairman, in all of our efforts to assist the process of democratic transition in South Africa, A.I.D. will continue to consult widely with the black community in South Africa, with Congress, and with other concerned U.S. organizations and institutions. We feel that the long standing process of consultation with these constituencies which has proven so valuable in shaping our program of assistance to South Africa, and the unique structure of the A.I.D. program which works through credible South African NGOs and community-based organizations, is the basis for the current and widely accepted credibility of the A.I.D. program in South Africa.

I hope that this brief but broad review of A.I.D.'s program in South Africa has provided the kind of perspective on our near-term plans for assistance to South Africa which you desired. In closing, Mr. Chairman, I would like to thank you and the Subcommittee for the invaluable support which you continue to provide to our program in South Africa as we assist this country in making its long-awaited transition.



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TESTIMONY
Prepared for

the

SUBCOMMITTEE ON AFRICA
of the
U.S. HOUSE OF REPRESENTATIVES

September 30, 1993

by

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Lawyers' Committee for Civil Rights Under Law



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SOUTH AFRICA: THE TRANSITION

On Monday, September 7th, negotiating parties finalized the terms for the establishment of the Transitional Executive Council ("TEC" or "Council"), the primary institution that will oversee the transition to a new democratic era in South Africa.

It has been over three years since the release of Nelson Mandela from a South African prison. Yet his sizeable black constituency still cannot vote. The road to democracy in South Africa has been characterized by a slow, stop and start process during which tragedy and disappointment have often come on the heels of signs of hope and raised expectations.

The democratic transition in South Africa officially began in December 1991 when 19 political parties came together to launch the Convention for a Democratic South Africa ("CODESA"), a multi-party negotiating forum. Hindsight has shown the timetable set by that forum for the transition to be overly optimistic. Specifically, an Interim Government Council representing the 19 CODESA parties was to have been established in June 1992. An election for a constituent assembly was to have followed a year later - June 1993.

Negotiations, however, were suspended in May 1992, just before the Interim Government Council was to have been established. The talks were terminated completely in June 1992, amidst accusations by the African National Congress ("ANC") and other opposition parties, that

the National Party-led Government had been assisting, if not orchestrating the forces of political violence that continued to ravage African communities. Thus, instead of preparing for South Africa's first democratic elections, the major political players spent the balance of 1992 trying to put the derailed negotiations back on track.

In April of this year, CODESA was reconstituted into a 26 member "Multi-party Negotiating Forum." Although parties from the far left and the far right have intermittently participated in the forum, the key players, are still regarded to be President de Klerk's National Party ("NP") and the ANC. The delay in the negotiations appears to have worked mainly in favor of the Government. During the hiatus, the ANC made significant concessions on three key issues: power-sharing, regionalism and the nature of the constitution-making process.

KEY ISSUES

Power-Sharing

Throughout the negotiations, a central issue of contention has been the Government's insistence that a traditional constitutional order based on majority-rule would not be sufficient to protect the interest of the white minority. President de Klerk has advocated instead, a government in which at every level of the legislative and executive branches a minority party would have effective power to veto initiatives sought by parties representing the majority of the population.

Initially, the ANC advocated a short transition process that would end in a winner-take-all election. However, the Congress changed its position late in 1992 at the insistence of Joe Slovo, one of the liberation movement's most respected leaders. Slovo contended that such an abrupt

exclusion from power would heighten the likelihood of a backlash from white extremists and embittered moderates who would still have operational control of the Afrikaner dominated civil service and security forces. The ANC leadership accepted Slovo's analysis that a gradual process of transition marked by cooperation between the ANC and those now in power would minimize the threat to stability.

As a result of this policy shift, the ANC reached an agreement with the National Party to share power in a "Government of National Unity and Reconstruction" which would govern the country for at least 5 years after the election of a constituent assembly. All parties that win above 5% of the vote in the April 27th elections will have a proportionate number of seats in the Constituent Assembly/National Assembly and proportional representation in the Cabinet. The President will be chosen from the majority party, but would need the approval of two-thirds of the Cabinet for certain important decisions.

At the conclusion of the five year period of joint rule (1999), there will be an election for a new government based on the post-apartheid constitution, as adopted by the Constituent Assembly ("CA"). The ANC believes that the democratically elected CA will agree on a constitutional order based on traditional principles of majority-rule.

Polls and predictions released at the beginning of 1993 regarding the possible outcome of the first non-racial elections vary. According to one prediction, votes would be cast by the estimated 20 million electorate as follows: ANC - 60%; NP - 17%; Pan Africanist Congress ("PAC") - 8%; Conservative Party ("CP") - 6% and Inkatha Freedom Party ("IFP") - 5%, with the remaining votes distributed among other parties, none of which would reach the 5% threshold.¹ However, the NP fairs much better under a prediction made by two political

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scientists, Andrew Reynolds and Bernard Grofman, that the ANC would receive 40.6% of the vote, the NP 30.2%, the IFP 11.4%, and the CP 5.7%, with the PAC and others receiving less than 5%.²

Under the first scenario, the combination of ANC and PAC on the left would have sufficient strength, i.e. 68% (more than a two-thirds majority), to dominate a NP/CP/IFP alliance on the right. However, under the second scenario, the NP-led conservative alliance would have substantial power to block the exercise of the executive powers by an ANC President.

Some analysts view the latter scenario as the more probable one. The ANC claims the bulk of its support in communities that are increasingly violence ridden. The consequence of that violence may be that a large segment of ANC supporters don't vote because of fear for their safety. According to a recent poll commissioned by Matla Trust, a South African based organization which will be holding voter education workshops throughout the period leading up to elections, 38% of the Africans surveyed claimed that the violence is likely to keep them away from the polls on election day. However, another recent poll indicates that the support for Mandela has risen among both blacks and whites. According to Markinor, a South African-based, Gallup-affiliated research service, Black support for Mandela rose from 65% in November 1992 to 74% in May 1993. His support among whites went from 3% to 14%. According to Markinor's chief analyst, the increased support for Mandela suggests that "his performance and display of leadership after Chris Hani's assassination have earned him new respect."³

Regional Powers

A second hotly contested issue throughout the negotiations has been the nature of the post-apartheid state. The ANC's original position was that the future state be a unitary one, with a strong central government, as opposed to a decentralized confederation of semi-autonomous jurisdictions, as proposed by the Government. The ANC feared that the entrenchment of substantial powers in regional governments would enable localities (some of which stand a better chance of being under white control than the national government) to block initiatives to redress the social and economic inequalities created by apartheid.

The NP gained allies in its campaign for federalism from repressive homeland governments which saw in federalism a means to maintain the status quo, insulated from internal or international reprisal by their new status as parts of a democratic whole. The Conservative Party and other white right-wing political groupings joined the press for powerful regions as a route to "self-determination for the Afrikaner nation". Under the leadership of the IFP, and calling themselves the Concerned South Africans Group ("COSAG"), these black and white conservative parties have refused to endorse the April 27th election date until their demands on the question of regionalism have been met.

In order to avoid further alienation of the IFP, a frequent detractor during the negotiations, the ANC has departed substantially from its original insistence on a highly centralized, unitary state. Now, according to Secretary General Cyril Ramaphosa, the ANC maintains that "regions are the levels where democracy and good government can be effectively practiced."⁴ They have agreed to strong regional governments with a substantially greater devolution of power than originally envisaged.

The Multi party Negotiating Forum has formulated a set of "constitutional principles," not yet formally adopted, which will be binding on the CA. The principles provide for

democratically elected regional governments with "appropriate and adequate legislative and executive powers" to enable them to function effectively.

Regional governments are given both exclusive powers and certain other powers that are to be exercised concurrently with the national government. The current draft of the constitutional principles sets out a detailed 12 pronged prescription for the allocation of powers to the national and regional governments which includes an admonishment to the national government to refrain from exercising its powers "so as to encroach upon the geographical, functional or institutional integrity of the [regional governments]." Criterion such as the need to maintain uniform standards, security, economic unity or protection of the common market are used to justify exclusive or overriding powers granted to the national government. Criterion 9 directs the CA to grant the regional governments powers which are either exclusive or concurrent with the national government for "planning and development and delivery of services" and "in respect of aspects of government dealing with the specific socio-economic and cultural needs" of the regions' inhabitants. Concurrent authority will exist where mutual cooperation is desirable to guarantee equality or access to government services. The regions are granted veto power over national government initiatives to alter the allocation of power. Regional governments will also have a constitutional right to "an equitable share" of revenue generated nationally and will presumably have their own revenue raising competence.

During the interim government phase, the regions will be administered by an interim regional government that will be elected at the same time as elections for the CA. The powers, functions and structures of those regional governments during the transition period are presently being considered by a committee established by the Multi-party Negotiating Forum, and will be entrenched in an interim constitution. Regional boundaries are being set by a Delimitation Commission. While the interim regional dispensation will not be binding per se on how the CA

gives shape to the final constitutional provisions, it will have substantial impact on it, since half of the representatives to the CA will be elected by regional representatives.

These agreements do not go far enough, however, for the IFP and the CP which are now boycotting the talks. Gatsha Buthelezi, President of the IFP maintains that unless the final agreement reached during the negotiations includes a binding prescription for federalism that will accommodate his interests, he will continue to boycott the talks. The IFP is pushing for a confederal model that would permit regions to have strong fiscal powers, their own militia and almost total autonomy of a variety far greater than the IFP currently enjoys as the party in power in the KwaZulu homeland.

The Nature of the Constitution-making Process

On a number of occasions the multi-party talks have broken-down over disagreement about the process by which the constitution would be drafted. The NP and its allies, have sought to have the broadest possible scope of constitutional issues determined by the multi-party forum, rather than a democratically elected constituent assembly, in which they are likely to be minority parties. The ANC, initially adamant in favor of leaving decisions on all crucial constitutional questions to the elected constituent assembly, has yielded on this point.

The agreed process is that the unelected Multi-party Negotiating Forum will adopt an interim constitution that will govern the country during the transition period.* The forum will

*As of the writing of this testimony, several aspects of the interim constitution were still being negotiated. In particular, issues relating to the wording of the chapter on fundamental rights, the electoral system, deadlock-breaking mechanisms in the process of constitution-making, the national executive, the judiciary, and the role and competencies of local governments, are still outstanding. Aspects of the draft interim constitution that have been agreed upon include a basic prohibition against discrimination, and most other universally recognized constitutional principles, including a right to life provision. However, in contrast to the U.S. constitution, there is specific

also adopt constitutional principles that will be binding on the work of the subsequently elected constituent assembly. Special majorities will be required to adopt constitutional provisions in the constituent assembly and a constitutional court will exercise judicial review over the conformity of the final constitutional provisions with the earlier principles. This represents an important victory for the National Party which has secured for itself as part of the constitutional principles, the required participation of minority political parties in the legislative process. According to one political analyst: "The NP's strategy is to lock as many preconditions in as possible so that the ANC will not be in a position to dilute them once it is the majority party. In the end, [the constituent assembly] will basically be left with filling in the detail of a new constitution, while the parameters within which it can maneuver are set by the multi-party forum, which is not an elected body."⁵

TIMETABLE

The assassination of ANC and Communist Party leader Chris Hani in April, the arrest of 77 members, including the entire negotiating team, of the PAC in May, and the June 25th storming of the negotiations hall by armed white right-wing protestors, placed the negotiations perilously close to derailment. The continuation of negotiations in spite of those potentially paralyzing events is testament to the strong resolve, particularly of the ANC, to keep the talks on track. However, deadlines and timetables have rarely been met.

Based on the current status of the talks, the following timetable is being envisioned:

language in the current draft which grants constitutional protection to affirmative measures aimed at promoting the advancement of previously disadvantaged groups. While the constitutional principles will be the only parameters legally binding on the Constituent Assembly, it is expected that there will be heavy reliance on the interim constitution as the basis for the permanent constitution.

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- September 13-30, 1993 - Parliament convenes to enact a series of transitional measures, including the Transitional Executive Council Act, the Independent Electoral Commission Act and the Independent Media Commission Act.*
- Late October or Early November 1993 - A Transitional Executive Council (TEC) will be established which will supervise critical aspects of the government to create a "level playing field" and "conditions conducive to a free and fair election." The TEC will include representatives of all major political parties and, through sub-councils, will exercise control over 7 broad areas to be discussed below. In addition to the TEC, two other transitional commissions an Independent Electoral Commission and an Independent Media Commission will be established.
- October, 1993 - Parliament enacts an interim constitution and an electoral law setting the parameters for elections for a constituent assembly.
- April 27, 1994 - All South Africans of voting age go to the polls to elect a single 400-member Constituent Assembly ("CA"), half of whom would be elected on the basis of proportional representation using a national party list, and the other half elected from regional lists. All parties receiving votes of 5% or more will be entitled to a proportionate number of seats in the CA. Members of the CA would also serve as the interim National Assembly (NA). Once constituted, the NA elects a president and appoints a cabinet pursuant to the requirement that all parties elected to the NA are represented in the cabinet - The Government of National Unity and Reconstruction (GNUR).
- 1994-1996 - The Constituent Assembly completes the process of drafting a new constitution.
- 1994-1999 - The GNUR continues to govern the country until the first elections under the new constitution are held, five years after the election of the CA.

*It is important to point out here that even after the enactment of these measures, none of the agreements contained therein will be implemented until all of the transitional measures, including the interim constitution and the election law, have been promulgated.

TRANSITIONAL STRUCTURES

The Transitional Executive Council

On Thursday, September 23rd, the bill containing the terms for the establishment of the TEC was passed during the current special session of Parliament. The Council is expected to be fully constituted by the end of October.

The goals of the Council as articulated in the Transitional Executive Council Act are:

- to eliminate any impediments to legitimate political activities;
- to eliminate any form of intimidation which has a bearing on the transition;
- to ensure that all political parties are free to canvass support from voters to organize and hold meetings and to have access to all voters for the purposes thereof;
- to ensure the full participation of women in the transitional and electoral structures and processes;
- to ensure that no Government or administration exercises any of its powers in such a way so as to advantage or prejudice any political party; and
- generally to create and promote conditions conducive to the holding of free and fair elections.

Each party currently participating in the Multi-party Negotiating Forum will be entitled to have one representative on the Council. Of the 26 parties that began the negotiation process earlier in the year, only 19 parties voted in favor of the establishment of a TEC. The Inkatha Freedom Party, the KwaZulu Government which is dominated by the IFP and the Conservative Party have boycotted the talks for the past two months. The governments of two nominally independent homelands, Bophuthatswana and the Ciskei specifically voted against the measure and the Pan

Africanist Congress on the left and the conservative Afrikaner Volksunie party on the right, both abstained.

The three homeland governments, the Inkatha Freedom Party and most recently the PAC, have specifically stated that they do not intend to be represented on the TEC. However, the leading negotiators, the Government and the ANC have demonstrated a readiness to proceed on course whether or not some parties are left behind.

The extent and scope of the Council's authority have been the subject of much debate. The Government on the one hand, has insisted upon restricting the Council to a consultative role wherein it would consult with the Government solely on issues relating to the election. The ANC on the other hand, pushed for the TEC to have full control, or at least joint control with the Government, over strategic governmental functions such as the security forces and finance. The resulting compromise, which forms the basis for the final law, is that the powers of the TEC will be limited. Its mandate will be to assure free and fair elections solely, not to restructure apartheid institutions. It will not have authority to co-govern. Rather, by a 75% or 80% majority, depending on the subject matter, the TEC will have veto power over certain government initiatives. It will have the power to make inquiries and conduct investigations pertaining to matters that fall within the scope of its mandate and will also have primary control over a special peacekeeping force that it will create.

A Special Electoral Court established under the Independent Electoral Commission will resolve disputes between the Government and the Council where the dispute involves a disagreement over 1) whether "a particular matter falls within the scope of the powers of the Council or Subcouncil;" 2) proposed legislation that is alleged to be in conflict with the

objectives of the Council or 3) a directive of the Council with which the Government is obliged to comply. The findings of the Special Electoral Court will be binding and not subject to further appeal.

Both sides have attempted to frame the agreement as a victory for their respective constituencies. According to chief Government negotiator Roelf Meyer, "we are satisfied that this bill does not provide for a substitute of the Government in any way whatsoever, or joint control of the security forces." In contrast, Joe Slovo of the ANC maintains that the Council "has got enormous powers - the power to poke its nose into everything that has a bearing on a free and fair election. It is not a toothless tiger."⁶ While it remains to be seen how the TEC will operate in practice, possible Government resistance to TEC directives which is intimated in Meyer's statement, may threaten the chances for Slovo's vision to become a reality.

The Council will exercise its oversight in 7 broad areas through the establishment of Subcouncils. Where new areas of concern arise, additional Subcouncils may be added. The 7 Subcouncils currently envisioned will oversee transitional activity relating to: 1) Regional and Local Government and Traditional authorities; 2) Law and Order, Stability and Security; 3) Defence 4) Finance; 5) Foreign Affairs; 6) Status of Women; and 7) Intelligence.

1. Regional and Local Government and Traditional Authorities

The Subcouncil on Regional and Local Government and Traditional Authorities will be charged with gathering information and making proposals regarding "regional and local government budgets; powers, duties and functions, and restructuring and rationalization of regional and local government administrations; transitional measures; interim local government structures; and the demarcation of boundaries." It will also monitor the impact of legislative and

executive measures on traditional leaders and political participation in traditional communities.

2. Law and Order, Stability and Security

One of the newly created security organizations over which the Subcouncil on Law and Order, Stability and Security will have chief control is a national inspectorate comprised of police officials and other policing experts who will investigate and monitor all policing agencies. International experts will be called upon to assist in this process. Based on the results of its investigations, the Subcouncil will be expected to make recommendations regarding ways to improve the effectiveness of policing agencies. It will also establish a national independent complaints body which will receive and investigate complaints of police misconduct. Most importantly, the Subcouncil will serve as a check on the actions and decisions taken by the Minister of Law and Order who will be required to consult with the Subcouncil prior to any declaration of a state of emergency or unrest area. A committee will be established to mediate any disputes between the Government and the Subcouncil.

3. Defence

In addition to being kept abreast of all planned military activities, the Subcouncil on Defence will have the power to investigate any military officer or unit of the military which may be in breach of any code of conduct or disciplinary code. On the basis of such investigations, the Subcouncil will also have the authority to order, in consultation with the appropriate military commander, that specific disciplinary actions be taken against an officer found to be in breach of a code. Any deployment of the defence forces for purposes of crime prevention or peacekeeping must be in strict compliance with regulations specifically promulgated by the Subcouncil. The Subcouncil will also oversee resource allocations for the daily maintenance of

all armed forces, including a National Peacekeeping Force (NPF) whose establishment will be the sole responsibility of the Subcouncil. The NPF is to be comprised of all military forces falling under the authority and control of the participants in the Council who wish to contribute their personnel to the NPF. In establishing the NPF, the Subcouncil will strive to ensure equal representation on the force of all the political parties that contribute to it. The Special Electoral Court will resolve disputes between the Defence Ministry and the Subcouncil.

4. Finance

The Government will be required to keep the Subcouncil on Finance abreast of all recent economic developments and economic policy objectives. A crucial function of the Finance Subcouncil will be to ensure that funds are not applied in a manner favoring one political party over another or in such a way that is wasteful or corrupt. In addition, any measures proposed by the Government which are designed to "rationalize Treasury functions in the process of realignment of government structures" during the transition will be subject to the Subcouncil's approval. The Subcouncil will have the power to request disciplinary investigations into possible mishandling of government funds by public officials. The Subcouncil will also make recommendations regarding the privatization of government functions.

5. Foreign Affairs

The Subcouncil on Foreign Affairs will monitor the Government's handling of foreign affairs and make recommendations regarding international agreements relating to the transition and on how best to promote international relations that are beneficial to South Africa.

6. Status of Women

The Subcouncil on the Status of Women will focus on "ensuring the full and equal

participation of women in the preparation for the implementation of and the transition to a free and democratic order in South Africa." Specifically, the Subcouncil will be charged with facilitating the implementation of gender sensitive legislation and ensuring that all participants in the Council, the other Subcouncils, the Independent Electoral Commission, the Independent Media Commission, the Independent Broadcasting Authority and other relevant organizations, promote the free and equal participation of women in the electoral process.

7. Intelligence

This Subcouncil will be charged with adopting a set of basic principles on intelligence which would serve as the basis for the creation of "a national intelligence capability in a new democratic dispensation." It will also organize and establish a Joint Co-ordinating Intelligence Committee comprised of senior representatives of all intelligence services which will help to ensure that Government intelligence operations are in line with the objectives of the TEC. This Subcouncil will also formulate a code of conduct which will be binding on all members of the services during the period of transition and which will serve as a basis for an official code in a new democratic dispensation. The Special Electoral Court will resolve any disputes between the Subcouncil and the Government.

Independent Electoral Commission

A separate commission called the Independent Electoral Commission is also expected to be in place before the end of this year. Sitting on the IEC will be seven to eleven people chosen on the basis of their reputations for impartiality and fairness and who specifically do not have high political party profiles. According to the Independent Electoral Commission Act which was

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recently passed in Parliament, the role of the IEC will be:

- to administer, organize, supervise and conduct, whether directly or indirectly, free and fair elections for the National Assembly and all other legislatures in terms of the Constitution;
- to promote conditions conducive to free and fair elections;
- to determine and certify the results of elections and to certify to what extent such elections have been free and fair;
- to conduct voter education; and
- to make and enforce regulations for the achievement of such objects.

Members of the international community will be able to participate on the Commission in an advisory capacity. Not more than 5 international experts will be invited to serve as non-voting members of the IEC. There will also be an International Advisory Committee which will advise the Commission on any matter regarding the performance of its functions.

An Electoral Tribunal will also be established. The tribunal will determine the merits of complaints involving charges against a person or political party of failure to comply with the terms of the Electoral Code of Conduct. The tribunal will also have the power to impose penalties prescribed by the Electoral Act. The decisions of the Electoral Tribunals will be reviewed upon appeal to Electoral Appeal Tribunals. The Special Electoral Court will review decisions of the IEC.

The Independent Media Commission

The Independent Media Commission ("IMC") will be responsible for ensuring the equitable treatment of political parties and candidates by the state-owned media and other

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information services. The Independent Media Commission is not to be confused with the Independent Broadcasting Authority ("IBA") which is the only permanent structure being established during the transitional period. The IBA which is patterned substantially after the U.S. Federal Communications Commission, is not expected to be in place until after the elections. Consequently, the IMC will be the sole entity monitoring the media during the transitional period.

THE MARGINALIZED PARTIES

Since the negotiations reconvened in April, there have been 26 parties participating. The ANC and the NP continue to dominate the talks. The "sufficient consensus" required to reach agreement on any issue, has been interpreted generally to be realized with the assent merely of the ANC and the NP.* At the margins of the negotiating forum are parties with relatively small constituencies on the one hand, but enough power to impact substantially on the course of the proceedings.

Inkatha and the Bantustan Parties

Chief among those is the predominantly Zulu Inkatha Freedom Party whose support base has been pegged as between 3% to no more than 10% of the national population. Recently, prominent conservative whites have switched their allegiance from the NP to the IFP. In addition to the increasing white support for Inkatha, the fiery rhetoric of Inkatha leader Chief

*The KwaZulu government in close association with the Inkatha Freedom Party recently challenged the "sufficient consensus" formula in court in a lawsuit against the Negotiating Council. The KwaZulu Government claimed that the formula did not yield representative decisions. However, its efforts to have the court invalidate the formula were defeated.

Gatsha Buthelezi, which at times has included threats of a civil war, has forced the major players to grant to the IFP disproportionate influence within the negotiating forum.

Instead of elections for a constituent assembly to draft a new constitution, the IFP strongly maintains that the Multi-party Negotiating Forum should have the exclusive mandate to draft a permanent constitution and that non-racial elections should be held only after such a constitution is drafted. It also opposes the installation of a Transitional Executive Council and any form of interim government. The IFP wants to use this opportunity to exert its current influence, which would likely be diluted in the context of a CA, to push for a confederal state where it could enjoy substantially unfettered regional powers.

Similarly, the leaders of two of the four nominally independent homelands, Ciskei and Bophuthatswana, have stated that they will resist efforts to reincorporate their homelands into South Africa. Their failure to participate in the TEC may provide an opportunity for them to denounce the TEC as an unrepresentative body whose decisions are therefore invalid.

The Pan Africanist Congress

The military wing of the PAC, the Azanian People's Liberation Army ("APLA") has been implicated in several highly publicized fatal attacks on white civilians. The PAC claims that its membership is growing due to the organization's principled stand on armed struggle and its refusal to participate in the CODESA talks on the grounds that they were unrepresentative and should have been convened in a neutral country. The PAC opposes the installment of a Government of National Unity during the 5 year period after the April elections.

The PAC has demonstrated a determination to remain in the current negotiating forum,

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in spite of pressure to withdraw created by the Government's arrest of 77 PAC members in a mass police action in May of this year. According to the PAC, arrests of its members are continuing. The Government has stated in the past that the PAC should not be allowed to participate in the forum unless and until it pledges to abandon its military activities. The PAC maintains that its armed attacks are reprisals for continued Government-sponsored violence in African communities.

In its most recent press release in which it announced its intention not to be part of the Transitional Executive Council, the PAC claimed that the South African army and police are the "major actual and potential causes of the violence" and that since the TEC arrangement leaves those two entities within the "exclusive" control of the government, its purpose of creating a stable environment for elections will not be served. The PAC has also charged that some of the attacks for which it has been held responsible were actually Government initiated attacks designed to incite white fears and animosities.

The PAC believes that 90% of the violence in South Africa is being orchestrated by the Government through various mercenary forces deployed in the townships. Rather than inter-party political fighting, in the view of the PAC, the violence is the Government's tool to commit genocide against African people.

The Conservative Party

Since the initiation of a negotiated settlement in South Africa, the rallying cry of the predominantly Afrikaner Conservative Party has been "self determination," which for the CP, ideally, would translate into a self-governing Afrikaner state or *Volkstaat*.

Recent reports have suggested that the CP, like Inkatha, is winning over white support from the NP. According to a recent survey by the South African based Human Sciences Research Council, the support among whites for the NP has dropped from 75% to 50% while support for the CP has risen to 29%. Analysts see this shift as a reflection of the disenchantment with the NP more than an acceptance of CP policies.

Going into the Multi-party Negotiating Forum, the CP committed itself to 5 bottom line demands: 1) that Codesa be considered a dead forum; 2) that the right of nations to determine their own affairs in their own territories be guaranteed; 3) that maximum autonomy be accorded to the regions; 4) that Umkhonto we Sizwe (the military wing of the ANC) be banned and that all arms caches be surrendered; and 5) that the concept of a unitary state be abandoned.

More recently, the head of the CP, Ferdi Hartzenberg, responded to the announcement of finalized plans for the TEC by saying that the implementation of the TEC would be a declaration of war.⁷ He has also threatened that if the Afrikaner people are not able to achieve self-determination through negotiations, they will resort to resistance politics. According to Hartzenberg, such resistance would become manifest in the form of "the ten plagues." The first plague would be a demonstration at the constitutional talks. The final plague, in the event that all previous measures fail, would be violence. While a leading member of the CP was arrested earlier in the year in connection with the assassination of Chris Hani, the CP continues to disassociate itself from any involvement in the killing.

Other Right-Wing Activity

The recent attacks on white civilians by APLA have stirred the passions of right wing groupings in South Africa which would like to see the progress away from an apartheid state reversed or alternatively, a separate and autonomous Afrikaner homeland established. Shortly after the spate of attacks on white civilians after the Hani killing, a group of former security force generals formed a Committee of Generals ("CoG") to mobilize the right-wing. They have also assumed the leadership of a loose coalition of right-wing organizations called the Afrikaner Volksfront ("AVF").*

Some observers subscribe to the theory that the Hani assassination and the formation of CoG were linked. According to this theory the assassination of Hani was intended to ignite black backlash which would in turn stir up white fears and insecurities, creating the perfect opportunity for a group such as CoG to inspire Afrikaner nationalism and generate greater support for a separate Afrikaner state. According to one report, it is the view of the members of the CoG that the CP is not doing enough to push the *Volkstaat* agenda. Rather, the generals are anxious to move the right-wing from parliamentary politics to extra-parliamentary resistance. However, there is already evidence of a split among the ranks of the leadership of the AVF between those who still favor a negotiated settlement and those who favor an armed struggle.

The armed struggle threat has a degree of credibility, since many Afrikaners who identify with the right are current or former members of the security forces and have significant access

*This week's reports surfaced regarding secret meetings between the ANC and the AVF regarding the Afrikaner homeland demand. While the ANC acknowledges that it has been engaging in discussions with the AVF over the establishment of a semi-autonomous Afrikaner homeland in exchange for Afrikaner cooperation with the transition process, it emphasizes that no final agreement has been reached. Some organizations on the right are not in favor of engaging in bilateral negotiations with the ANC. Neither the Conservative Party nor the Afrikaner Resistance Movement has been participating in the talks.

to firepower. In addition, observers have hinted that the formation of CoG may have heightened the possibility of a mutiny within the ranks of the security forces. According to the head of an Afrikaner dominated trade union, the general membership of his union would rather take instructions from retired General Constand Viljoen, chairman of the Committee of Generals, than from a present SADF general. Although General Viljoen has been under pressure to reject some of the more militant elements of the right wing, such as the group that stormed the negotiations building in late June, he has demonstrated a willingness to accept them as partners in the struggle for Afrikaner self-determination.

While there is wide speculation on the military capabilities of the right-wing, most dismiss these groupings as fringe formations incapable of sophisticated destabilization strategies of the kind that could have a major impact on the democratic process. The Hani assassination, however, was a deeply disturbing reminder of the power of a single act.

POLITICAL VIOLENCE AND THE TRANSITION

What has remained constant throughout the negotiations is the political violence which continues to pose the greatest threat to a successful transition to democracy in South Africa. The decline in the levels of violence that began towards the end of 1992 came to an abrupt halt in April, the month that Chris Hani was killed. In the days following the announcement of the date for the upcoming elections, violence reached a peak exceeded only in the period following the

unbanning of the ANC and other political parties in 1990.* Researchers and violence monitors who have simultaneously tracked the violence, negotiations and other political developments have concluded that the concurrence of increased violence with significant breakthroughs in the negotiations, points to a strategy to derail the transition through violence.

But, for the angry survivors of massacres and drive-by shootings in South Africa's townships and squatter camps, the violence is constant and the negotiations remote. Where they live, the double evils of political violence and economic deprivation are producing levels of frustration that threaten to alienate large segments of the population from a process whose success ultimately depends on their full participation in it.

The unemployment rate in the formal sector has risen to a high of 46%.⁸ A recent survey indicates that only 15% of black South Africans feel that they are better off today than they were a year ago.⁹ According to one analyst "blacks are showing an increasing trend of pessimism about the future" and they are continuing "to experience a deterioration in their families' economic situations."¹⁰

Violence monitors are reporting that in the townships frustration is turning to anger and more people are lashing out against a wider range of targets, including the monitors themselves. Monitors fear that they are increasingly coming to be seen as ineffectual. One reported being told that the only way he could help the community is to supply it with bullets.¹¹

More importantly the escalating violence and the fear it instills do not bode well for the upcoming elections. In one recent poll 38% of the blacks surveyed said that fear of violence was

*The average number of deaths attributable to political violence for the first three months of 1993 was relatively low - 178, while the toll for April jumped to 259, followed by 302 for May. Human Rights Commission, "Summary Report on Repression for May, 1993 - 580 were killed in July. Human Rights Commission, "Summary Report on Repression for July, 1993

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likely to keep them away from the polls on election day.¹² This statistic is born out by the fact that even now, long before the elections, many township residents are discouraged and often prevented from fulfilling ordinary daily obligations. According to a school principal in Daveyton Township in the East Rand, "only two percent of our pupils are attending classes. We have to send children home as early as 11 a.m. in fear of possible attacks."¹³ A health official at a clinic in Daveyton reports that fewer and fewer patients are keeping their appointments out of fear that they will be killed on the way. A nurse at the clinic says "we [health professionals] are also in constant fear for our lives, but there's nothing we can do."¹⁴

The average township resident continues to view members of the police and military with suspicion, animosity and distrust. In a recent statement taken by the Johannesburg-based violence monitoring group, Peace Action, a resident who was accused by police of organizing a self-defence unit, related a horrific tale of his own torture at the hands the police. He states "they had to stop [the torture] when blood started coming out of my ears and nose. . . . I told them that their behavior was frightening me and making me hate them because of their actions."¹⁵

Efforts to quell the violence have largely failed. The National Peace Accord with its network of monitors and dispute resolution committees, the Goldstone Commission of Inquiry with its quasi-judicial powers, the international violence monitors of the United Nations, the Commonwealth and the Organization of African Unity, along with scores of South African peace activist organizations have produced only marginal impact.

Where concrete steps have been urged to curb the violence, the government's response

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has been half-hearted. While there is no doubt, for example, that members of the security forces have engaged in acts of terrorism against civilians, adequate measures have yet to be taken to transform the security force culture of repression and intolerance. The bitter adversarial relationship between the African community and the security forces continues, along with the perception among township residents that the security forces cannot be relied upon to protect them. Little has changed since the report produced a year ago by an international team of police experts, which concluded that the South African Police displayed gross incompetence, bias, unresponsiveness to the concerns of township residents and investigation skills that were "woefully inadequate."¹⁶

Clearly, there is an urgent need, as the elections draw near, to deploy in the townships a competent, unbiased police force that will have sufficient authority and legitimacy to neutralize the forces of destabilization. While some in South Africa have called for the intervention of a United Nations peacekeeping force to maintain law and order during the period leading up to elections, to date, the negotiators have favored a National Peacekeeping Force composed entirely of South Africans drawn from the many military and paramilitary groupings around the country. Specifically, the force would incorporate personnel from organizations as diverse as the ANC's Umkhonto we Sizwe, Government security forces, the PAC's Azanian People's Liberation Army,

¹⁶See Africa Watch, "South Africa: Half-Hearted Reform - The Official Response to the Rising Tide of Violence", May 1993. According to Africa Watch, its most recent investigation into the responsiveness of the South African government to the violence revealed that "although some minor efforts have been made, the steps taken fall far short of a serious attempt to end the violence. . . . The government has been markedly reluctant to accede to even the most limited demands and recommendations of the ANC, independent human rights groups, violence monitors and independent commissions of inquiry." The observations of Africa Watch are born out by the example that even though residents of male hostels are repeatedly implicated in massacres and random violent attacks, and recommendations for addressing the violence have frequently included transformation or elimination of the hostels, undertakings to upgrade hostels into family units have not been treated with the urgency they deserve. Rather, hostels such as the infamous Nancefield hostel which are well known as flashpoints for violence have not been touched.

homeland government police and the right wing Afrikaner Resistance Movement. The force would number between 5,000 and 10,000 members, it would be placed under the authority of the TEC and trained with a special emphasis on the need for impartiality.*

U.S. POLICY TOWARDS SOUTH AFRICA

The United States must be at the forefront of the international community's efforts to facilitate the transition to democracy in South Africa. Already it has taken significant affirmative steps to position itself in that role. It has made substantial contributions to programs designed to strengthen the electoral process, including \$10 million for training elections observers, voter education and technical assistance to the various entities expected to play important roles during the transition. Through the Agency for International Development, our government is also making important contributions to the political and economic empowerment of those members of the South African population who were severely disadvantaged by apartheid. We applaud these efforts.

Now that we have received a "clear and unambiguous signal" from South Africa's chief negotiating partners that barriers to investment can now be removed, the U.S. government and state and local governments must move swiftly to lift remaining financial and trade sanctions and take steps to encourage and support measures that would contribute stimulus to the South African economy. However, the Code of Conduct for U.S. corporations, currently found in section 208

* This proposal has been criticized by a panel of experts as impractical given the severe time constraints. A panel of experts headed by U.S. lawyer Charles Ruff has attempted to fashion a more realistic proposal involving a peacekeeping service which would assume responsibility for policing in only limited circumstances such as marches, rallies and election-related violence. While this unit would have multi-party control, membership would be drawn from parties other than the government on a limited basis only. Instead, the unit would be comprised mostly of existing South African Police staff.

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of the Comprehensive Anti-Apartheid Act of 1986, must remain in place to serve as an important symbol of our commitment to see the complete transformation of South African society to one which is totally non-discriminatory, equitable and democratic. That transformation will take time to complete. The Code sets a standard of social responsibility that represents the bare minimum of what we expect of U.S. corporations in the employment of our own citizens both at home and abroad. In the case of South Africa, these special measures, designed to also protect South African employees of U.S. corporations, are not an inappropriate extension of our most fundamental principles about racial discrimination to how U.S. corporations conduct business in a country struggling to escape the legacy of apartheid. The failure of U.S. corporations to operate with due regard to minimum standards of affirmative action and economic empowerment for black South Africans, would be an embarrassment and would undermine our international integrity. We must continue to play a leadership role in this regard.

In addition, while the U.S. government must pledge substantial resources to areas such as housing, education and employment for black South Africans, foreign assistance can, and should play only a limited role in South Africa's economic future. One of the most striking things about South Africa is its dualistic economy, reflecting both developing and developed world conditions, with massive poverty a contrast to great wealth and sophisticated technical resources. Within its borders, South Africa has vast and developed resources that it can and must use to undo the damage that apartheid has wrought. U.S. policy must develop effective and appropriate measures to exert pressure on the South African government, South African business and other members of the public and private sectors to assume primary responsibility for the fundamental restructuring of the South African economy. "Redistribution" and

"reconstruction" must now head the list of newly defined economic priorities for both South Africa and U.S. policy towards South Africa.

The task of redistribution will be extremely complex. The privileged of the South African population will not surrender their privileges easily. The future democratic government will face formidable legal, financial and social blockages as it seeks to redirect the economy and the society as a whole. The U.S. government must identify an effective means of assisting the future South African government to encourage and create incentives to redirect investment from shopping centers in the suburbs to housing in the townships.

Though it is replete with imperfections, the U.S. experience with designing and implementing programs of affirmative action to rectify past injustices has much to offer. Our expertise in this area should be offered to government and private institutions in South Africa who demonstrate a commitment to the social and economic advancement of black South Africans.

While the installation of an interim government in South Africa should trigger the resumption of limited government-to-government foreign assistance, such as the provision of aid to South African government sponsored black universities, we urge the U.S. government not to abandon its program of support for those organs of civil society that have played a crucial role in human rights monitoring and advocacy, community self-help efforts and economic development. Over the years in South Africa, we have had the opportunity to witness what happens when committed community activists working at the grassroots levels replace bureaucrats as the chief conduits through which our resources are channeled.

South Africa is literally blanketed with non-governmental organizations ("NGOs") active in human rights and development work. There are hundreds of community-based NGOs

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affiliated with regional and national networks, hundreds of service organizations and scores of funding agencies financed by domestic and international donors. Most of these organizations were born out of the political struggle against apartheid, and have now turned to violence monitoring and development activities. These organs of civil society represent a unique strength in South African society. Their continued vitality is a critical element in reaching the future South Africa for which we all aspire.

But they are fragile structures that can be destroyed quickly by an abrupt withdrawal of funding or a flight of leadership to new non-racial government bureaucracies. We must find ways to positively reinforce this network of NGOs through our assistance. They will be South Africa's most important safeguard against any retreat from the challenges of a non-racial, non-sexist, democratic future.

CONCLUSION

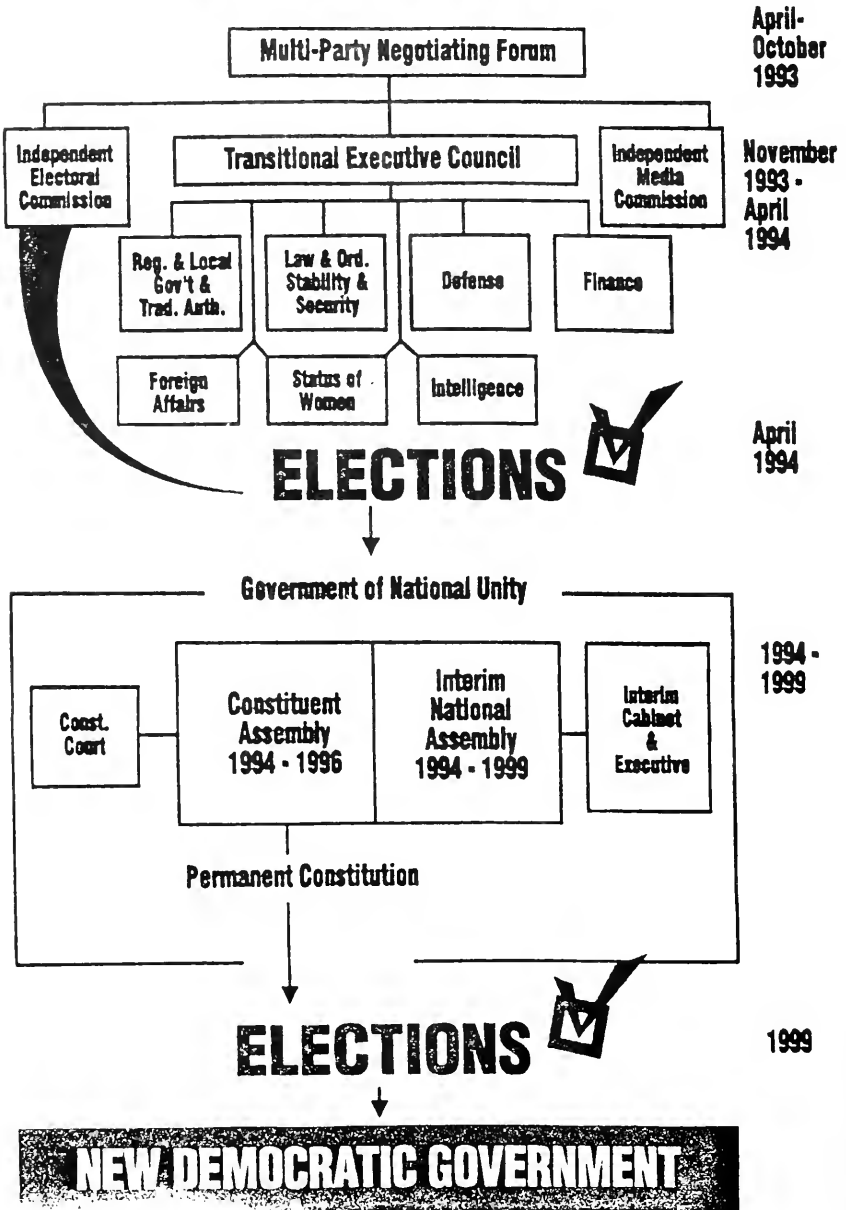
The road to democracy in South Africa is full of landmines. Many formidable problems augur ill for the stability of the transition: the escalating political violence, the declining economic situation, intolerant political attitudes, an increasingly marginalized "lost" generation of teenagers, unrealistic expectations and the vast divide between the "elite" negotiators and their constituent base. At this critical juncture in South Africa's history, its future depends not only on the ability of its leaders to sidestep the existing and yet unforeseen pitfalls, but also on our continued engagement and encouragement.

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South Africa: The Transition





The American Committee on Africa

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Testimony
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Before the House Subcommittee on Africa
on
U.S. Policy Towards The Transition in South Africa

September 30, 1993

Testimony by Dumisani S. Kumalo, September 30, 1993.

Mr. Chairman, members of this committee, I want to thank you for inviting me to testify before you today. I have just returned from South Africa and I believe that South Africa is going through its deadliest period so far, and at the same time its most exciting. And whatever support the United States will give at this time, whether it be political or economic, it will certainly go a long way towards helping the people of South Africa create a democratic society of their own choosing.

I am the Projects Director of the American Committee on Africa which was founded in 1953 with a mission to support the end of colonial rule on the African continent. Forty years later, we are witnessing the slow, bloody and difficult transition towards democracy in South Africa which will hopefully bring an end to apartheid, one the most cruel and evil systems of this century.

Sixteen years ago when I fled the apartheid government and came to live in the United States as an exile, my mission was to do everything I could do to organize a movement against apartheid in this country. On behalf of the American Committee on Africa, I immediately began traveling to all 50 states testifying on South Africa before city, county and state governments. I organized churches, unions, colleges and other grassroots organizations into a movement that became responsible for the passage of state and local sanctions in nearly 30 states and more than 100 cities. Similar restrictions were adopted by more than 100 colleges and universities. And now that Nelson Mandela has called for the lifting of these economic sanctions, we at the American Committee on Africa are eager to have these sanctions lifted.

On the day Mr. Mandela called for the lifting of sanctions, our sister organization, The Africa Fund, released a support statement signed by more than 40 national leaders, including elected officials. As we move to get all sanctions lifted, we would like to remind everyone that many individuals, institutions and other entities that adopted these restrictions, did so for at least two reasons. One was to destroy apartheid. The other was to help transform the lives and conditions of those who suffered under this system for over four decades. In other words, many people who supported sanctions would like to see American companies go back to South Africa not only to engage in "business as usual," but also to try to help address the legacy of apartheid. Let me emphasize that none of us here want to dictate to those in South Africa how this legacy should be addressed. The people of South Africa will do that for themselves. We can only support them. But we strongly urge that U.S. policy be shaped to deal with this legacy.

Testimony by Dumisani S. Kumalo, September 30, 1993.

Mr. Chairman, six years ago I had the pleasure and the honor to take an oath of citizenship of the United States before a federal judge in Brooklyn. For me this represented my deep personal expression of commitment to democracy. It is for this reason that I am often frustrated by our own U.S. State Department when it fails to stand up and be vocal about support for democracy in South Africa. No one is asking that the U.S. take sides in South Africa by supporting one party against the other. We are asking that the U.S. stand up and be heard publicly about unequivocal support for a fully democratic process and conclusion. In other words, the U.S. cannot be silent, or protest behind closed doors, when Chief Gatsha Buthelezi and his Inkatha Freedom Party are trying to bar democracy from coming to South Africa by acting as a spoilers in the ongoing negotiations. Democracy is too precious to be threatened by one party or one individual. Those who support and defend democracy have a duty to remain steadfast and courageous enough to stand and be counted at every turn of this process.

Whenever I exercise my vote in a New York city or state election, or voice my choice for our President, I am always conscious that my father who so loved and supported Nelson Mandela died without any hope that he might ever get to exercise that right in his life time. Nelson Mandela cannot vote for himself even today. One of the exciting things is that this may change come April 27. I returned from my last trip to South Africa convinced that people will come out in surprising numbers to vote when the elections are held. But they feel very threatened by the violence which seems very unlikely to stop before the elections. There is no doubt that the violence in South Africa is linked directly to subverting the progress towards democracy. Here are three examples:

(i) Since July when the April 27 election date was set, nearly 1,000 black people have died in political violence in South Africa.

(ii) On the day the Transitional Executive Council bill was passed by the Multi-Party Negotiating Forum, unknown gunmen shot and killed 21 people at a taxi stand.

(iii) On the day that the South African Parliament voted in support of the same bill, violence claimed 14 more lives. And so it continues.

An even greater danger for South Africa as a whole and in particular the pending elections, is the unwillingness of the government of State President F.W. de Klerk to combat the violence. The political death rate which has risen to as high as 18 people per day, does not seem to move the Pretoria regime into doing something about these killings. Putting the blame for the

Testimony by Dumisani S. Kumalo, September 30, 1993

violence only on the African National Congress and Inkatha Freedom Party for these killings is misleading because the overwhelming number of people who die are murdered at random and without any regard to their political affiliations. This is evidence of the existence of the Third Force which has been proven to involve members of the security forces.

In conclusion, we would suggest that immediately:

*** The United States government must stop dealing with the de Klerk regime and publicly recognize and respect the sovereignty of the Transitional Executive Council (TEC) as soon as it is in place. The creation of the TEC is a hopeful first step towards truly democratic government structures in South Africa.

*** United States funds must be used to strengthen organizations and groups that will become the guarantors of democracy in South Africa.

Mr. Chairman, we would gladly submit a detailed policy statement later. Right now, it is clear that the transition to democracy in South Africa is in peril. We urge you and the Congress to continue to fight for it.

Thank you.



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Tilden J. LaMotte, Chairman
Jennifer Davis, Executive Director

**STATEMENT ON THE ANNOUNCEMENT OF ELECTIONS
AND THE CALL FOR END OF SANCTIONS**

The South African government has finally agreed to hold free and democratic elections in which Nelson Mandela and the Black majority will vote for the first time. This is an important milestone on the road to democracy for the people of South Africa.

The African National Congress and the democratic movement in South Africa have told us that they hope these elections will be free and fair. Nevertheless, they have asked us to be on guard for violations of this historic agreement and we intend to honor that request.

Today those of us who have worked long and hard to end apartheid are pleased to be able to join Nelson Mandela, the African National Congress, the trade unions and the democratic movement in calling for an end to economic sanctions.

This will not bring an end to our concern for the people of South Africa. Apartheid will leave a terrible and bitter legacy of inequality, injustice and poverty. We believe that Americans can contribute to overcoming that legacy. As sanctions are lifted we will urge corporations to uphold the standards set by the democratic forces in South Africa for socially responsible investment that will promote equal opportunity, workers' rights, environmental protection and community development.

People of conscience throughout America can take great pride in the fact that we helped to make this historic victory possible. We launched a successful drive to use our investment funds and our purchasing power to combat the evil of apartheid. Now we must strengthen our partnership with the people of South Africa to eradicate the legacy of apartheid and build an equitable and peaceful society in which all can enjoy the fruits of democracy.

ends



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Tilden J. LaMella, *Chairman*
Jennifer Davis, *Executive Director*

**SIGNERS OF STATEMENT ON THE ANNOUNCEMENT OF ELECTIONS
AND THE CALL FOR END OF SANCTIONS**

Jerry E. Abramson, Mayor, City of Louisville, KY and
President, U.S. Conference of Mayors
Owen Bleber, President, United Auto Workers Union
Julian Bond, civil rights activist
William Booth, President, American Committee on Africa
Mark Brooks, President, Professional & Technical Employees Union
Edmond L. Browning, Presiding Bishop, The Episcopal Church
Paul J. Brownridge, City Treasurer, City of Los Angeles, CA.
Dr. Joan B. Campbell, General Secretary, The National Council of Churches of Christ in the U.S.A.
Ernie Chambers, State Senator, Nebraska Legislature
Dr. Benjamin Chavis, Executive Director, NAACP
Sophie Collier, President, Working Assets Common Holdings
Imeni Countess, Executive Director, Washington Office on Africa
Mano M. Cuomo, Governor, New York State
Jennifer Davis, Executive Director, The Africa Fund.
Wilhemina Delco, Representative, Texas State Legislature and Chair, South Africa
Task Force, National Conference of State Legislatures
David N. Dinkins, Mayor, City of New York
Donald Fraser, Mayor, City of Minneapolis, MN
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Avel L. Gordly, State Representative, Oregon State Legislature
John C. Harrington, Harrington Investments
Elihu Harris, Mayor, City of Oakland
Interfaith Center on Corporate Responsibility, New York, NY
Amy Isaacs, National Director, Americans for Democratic Action, Washington DC
Sharpe James, Mayor, City of Newark, NJ
Lynn H. Jondahl, State Representative, Michigan State Legislature
Susan Katz, National President, National Council of Jewish Women
Anita de Luna, MCDP, President, Leadership Conference of Women Religious
Carol Moseley-Braun, Senator, U.S. Senate
Joseph M. Neal, Senator, Nevada State Legislature
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Mark Ridley-Thomas, Councilman, City of Los Angeles, CA
Randall Robinson, Executive Director, TransAfrica
Byron Rushing, Representative, Massachusetts State Legislature
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David Scodras, Councilman, City of Boston, MA
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Joan Spector, Councilwoman, City of Philadelphia, PA
Richard Trumka, President, United Mine Workers of America
Donald Tucker, Councilman, City of Newark and Chairman, New Jersey Black Issues Convention
Albert Vann, Assemblyman, New York State Legislature
The Board of American Hebrew Congregations

Prepared statement by

MICHAEL CHRISTIE,
Director, Washington Office, South Africa Foundation

to the
AFRICA SUB-COMMITTEE of the
HOUSE FOREIGN AFFAIRS COMMITTEE

SEPTEMBER 30, 1993.

Mr. Chairman,

Two years ago I testified to this committee. The first paragraph of my testimony read as follows.

'Unemployment and underemployment in South Africa now exceed 40%. Over 5 million South Africans are currently unemployed or seriously underemployed. This figure is rising rapidly. Every day nearly 1000 people join the job market and only one in every ten of those can now find a job. We are approaching a time when there will be more unemployed and underemployed people in South Africa than those who have a job.'

The thrust of my testimony was to show that historical precedent suggests that democracy comes under severe pressure when unemployment reaches these levels. This would be true for an established democracy - let alone a new one in a continent like Africa when the notion of democracy remains something of an abstraction.

Now, two years later, the situation has deteriorated further. The Governor of the South African Reserve Bank recently estimated that unemployment and underemployment has now reached 46%. It is therefore not surprising that, despite the remarkable degree of progress achieved in the political negotiations, South African

society is at present characterized by tensions, violence and high crime rates. This is, of course, not all due to economic causes. The whole, vast legacy of Apartheid has left its distortions and we have not yet learned to conduct political competition in a properly democratic manner. But these factors play into an environment of widespread poverty and despair, of dislocation caused by the immigration of the mass of the population into the cities, of inadequate facilities and the breakdown of social services, and of rising but frustrated expectations.

I regret having to focus on this overriding reality at a time of optimism and historic political achievement. The establishment of the Transitional Executive Council will mark the beginning of black South Africa's participation in the running of their country. It will be a milestone in the march to democracy. Mr. Mandela has called for the lifting of all remaining sanctions against South Africa and President Clinton has responded with pledges of programs to support the recovery of the South African economy. Other countries have responded similarly. The ANC has committed itself to policies designed to establish a competitive economic environment in South Africa and a favorable climate for investment.

Progress is being made in South Africa to unravel the web of regulation, tariffs and other barriers and protection for special interests that were the progeny of the embattled mindset of Apartheid. Capital markets are opening to South Africa and we now have access to international lending institutions.

This is a time for optimism and already those of us in the private sector in South Africa have noted the return of an encouraging degree of interest from the most important group of all to us, the world's businessmen - the traders and investors. - those who bring markets for our goods, those who bring us know-how and technology, those who establish industries and join us in establishing our own. In other words, those who create jobs.

But I return to where I began. Unless we create jobs, and create them rapidly, whatever measure of democracy we achieve will be placed at risk. Our politicians may create our new democracy, and their achievement over the past three years had been an historic one, but, ultimately, it will be the responsibility of the private sector to sustain that democracy. It is therefore of the utmost importance that everything possible be done to assist that private sector to flourish, and to do so as soon as possible.

This may all sound rather obvious Mr. Chairman and it may sound unnecessary to emphasise something which appears to have been grasped by everyone from the President down. Only two days ago,

Governor Weld of Massachusetts signed an executive order responding to Mr. Mandela's call for the lifting of sanctions against South Africa. This was welcome promptness Mr. Chairman, except that order contained the following provision.

"1.3. The Commonwealth shall use the purchasing power of state government to ensure that it does business only with companies that comply with the principles set forth below."

These principles cover 'employment practices for companies doing business with South Africa' and 'Guiding principles for companies investing in South Africa'. They cover such matters as worker rights, discrimination in the work place, working conditions, the environment and other provisions such as the development of black business in South Africa. These are commendable principles Mr. Chairman but they are broadly worded, open to wide variations in interpretation and are to be monitored as I understand it, by some state official in Massachusetts, 8000 miles away from where the business is situated. There is no 'sunset' clause.

For the past year, U.S. business and we, their counterparts in South Africa, have done everything we thought possible to prevent this happening. Put simply, the issue is this: U.S. business is not opposed to the principle of investment codes. They will adhere to codes imposed by host countries. But they regard codes mandated and monitored from within the United States, as a severe disincentive to investment abroad. South Africa is the only

country that is subjected to such imposition. To replace sanctions with mandated codes is merely to replace one barrier with another. It perpetuates the politicisation of a relationship that should surely now become an economic one. It places an imposition on U.S. business that is not faced by its competitors from other countries and place it at a competitive disadvantage. It is also a matter of sovereignty. When do we get to the point that South Africa can invite foreign investors into South Africa on our terms?

There are many state and local authorities that are currently poised to pass legislation lifting sanctions against South Africa. If Massachusetts serves as an example, this could become a grassfire. However well intentioned this legislation may be, it will have the effect of going directly against the spirit of Mr. Mandela's call to the world to assist the re-building of the South African economy and President Clinton's positive response.

Mr. Chairman, we have, in South Africa, powerful black trade unions, whose business it is to represent the interests of their members. U.S. business in South Africa has been at the forefront of establishing modern employment practices in my country. Their employees are almost all unionized. We need the U.S. business community to return and expand. We are appreciative of every dime of foreign aid we get. But we realize that this is finite. We appreciate advice and counsel, because we need it. But the greatest gift the United States can make to South Africa is the gift of its private sector - the gift of jobs. These artificial

and unnecessary barriers will stand in the way of what everyone wishes to achieve.

In conclusion, Mr. Chairman, I would like to make one final, broad observation on the constitutional proposals that are currently under consideration in South Africa. These proposals have come under sharp criticism from sources such as the Chief Justice, members of the business community and sections of the press. These criticisms have focussed on such matters as the near impossibility of legal interpretation, the emphasis on equality rather than liberty, and the susceptibility to concentrations of power at the center, rather than the limitation of power, a central principle, as I understand it, of the U.S. Constitution. The process of constitution building is not complete in South Africa, but I would urge this Congress to lend its prestige and experience to ensuring that we, in South Africa, may inherit a durable framework, built on the principles and core values enshrined in your own Constitution.



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